Office of Missouri State Auditor

Fiscal Notes Prepared by the Missouri State Auditor's Office in 2022

Fiscal Note Number	Date Received	Fiscal Note Description	Date Submitted to Secretary of State
22-SJR 38	05/23/2022	Senate Substitute No. 2 for Senate Joint Resolution No. 38 - Funding for a Police Force Established by a State Board of Police Commissioners	06/23/2022
22-R002	06/01/2021	Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 262 (Cady) - Motor Fuel Tax and Other Transportation Provisions	07/06/2021
22-R001	05/17/2021	Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 262 (Cady) - Motor Fuel Tax and Other Transportation Provisions	Rejected by Secretary of State
22-HJR 35	06/03/2021	House Committee Substitute for House Joint Resolution No. 35 - State Treasurer's Ability to Invest	07/09/2021
22-HJR 116	05/23/2022	House Joint Resolution No. 116 - Establishment of a Missouri Department of the National Guard	06/23/2022
22-089	04/18/2022	Proposed Constitutional Amendment - Article XV (Dumizo) - Right to Remember Amendment	Rejected by Secretary of State
22-088	03/15/2022	Proposed Constitutional Amendment - Article XV (Dumizo) - Right to Remember Amendment	Rejected by Secretary of State
22-087	02/18/2022	Proposed Constitutional Amendment - Article XV (Dumizo) - Right to Remember Amendment	Rejected by Secretary of State
22-086	02/04/2022	Proposed Constitutional Amendment - Article XIV (Dumizo) - Right to Remember Amendment	Rejected by Secretary of State
22-085	01/24/2022	Proposed Constitutional Amendment - Article VIII (Toth) - Election Reform	02/23/2022
22-084	01/11/2022	Proposed Constitutional Amendment - Article III (Bolch) - House of Representatives	Rejected by Secretary of State
22-083	12/06/2021	Proposed Constitutional Amendment - Article XXI (Shaffer) - Medical Rights and Claims	01/06/2022
22-082	12/06/2021	Proposed Constitutional Amendment - Article XVIII (Shaffer) - Parental Rights	01/06/2022
22-081	12/06/2021	Proposed Constitutional Amendment - Article XVII (Shaffer) - Election Integrity Procedures	01/06/2022
22-080	12/06/2021	Proposed Constitutional Amendment - Article XVI (Shaffer) - Duty of Federal Government to Uphold the Bill of Rights and Constitution	01/06/2022
22-079	11/23/2021	Proposed Constitutional Amendment - Article XV (Phoenix) - Medical Liberty	12/27/2021

22-078	11/19/2021	Proposed Constitutional Amendment - Article XV (Phoenix) - Medical Liberty	Rejected by Secretary of State
22-077	11/09/2021	Proposed Constitutional Amendment - Article XV (Phoenix) - Medical Liberty	Rejected by Secretary of State
22-076	10/27/2021	**Proposed Constitutional Amendment - Article III, version 9 (Cossette) - Sports Wagering**	12/01/2021
22-075	10/27/2021	**Proposed Constitutional Amendment - Article III, version 8 (Cossette) - Sports Wagering**	12/01/2021
22-074	10/27/2021	**Proposed Constitutional Amendment - Article III, version 7 (Cossette) - Sports Wagering**	12/01/2021
22-073	10/27/2021	**Proposed Constitutional Amendment - Article III, version 6 (Cossette) - Sports Wagering**	12/01/2021
22-072	10/27/2021	**Proposed Constitutional Amendment - Article III, version 5 (Cossette) - Sports Wagering**	12/01/2021
22-071	10/27/2021	**Proposed Constitutional Amendment - Article III, version 4 (Cossette) - Sports Wagering**	12/01/2021
22-070	10/27/2021	**Proposed Constitutional Amendment - Article III, version 3 (Cossette) - Sports Wagering**	12/01/2021
22-069	10/27/2021	**Proposed Constitutional Amendment - Article III, version 2 (Cossette) - Sports Wagering**	12/01/2021
22-068	10/27/2021	**Proposed Constitutional Amendment - Article III, version 1 (Cossette) - Sports Wagering**	12/01/2021
22-067	10/06/2021	**Proposed Constitutional Amendment - Article XXX (Shaffer) - Election Integrity Procedures**	11/08/2021
22-066	09/27/2021	Proposed Constitutional Amendment - Article XVII (Shaffer) - Election Integrity Procedures	Rejected by Secretary of State
22-065	09/01/2021	Proposed Constitutional Amendment - Article XIV, version 3 (McSwain) - Cannabis Legalization	Rejected by Secretary of State
22-064	09/01/2021	**Proposed Constitutional Amendment - Article XIV, version 2 (McSwain) - Cannabis Legalization and Changes to Medical Marijuana Provisions**	10/01/2021
22-063	09/01/2021	**Proposed Constitutional Amendment - Article XIV, version 1 (McSwain) - Cannabis Legalization and Changes to Medical Marijuana Provisions**	10/01/2021
22-062	08/31/2021	**Proposed Constitutional Amendment - Article VIII, version 3 (Roland) - Election Reform**	10/01/2021
22-061	08/31/2021	**Proposed Constitutional Amendment - Article VIII, version 2 (Roland) - Election Reform**	10/01/2021
22-060	08/31/2021	**Proposed Constitutional Amendment - Article VIII, version 1 (Roland) - Election Reform**	10/01/2021
22-059	08/27/2021	**Proposed Constitutional Amendment - Article XIV (Ellinger) - Marijuana Legalization and Changes to Medical Marijuana Provisions**	09/24/2021
22-058	08/26/2021	**Proposed Constitutional Amendment - Article VIII (Brain) - Election Reform**	09/24/2021
22-057	08/25/2021	**Proposed Constitutional Amendment - Article IX (Talbott) -**	09/24/2021

		School Accreditation and Use of Public Money for Education	
22-056	08/17/2021	Proposed Constitutional Amendment - Article VIII (Brain) - Election Reform	Rejected by Secretary of State
22-055	08/03/2021	Proposed Constitutional Amendment - Article XIV, version 3 (McSwain) - Cannabis Legalization	Rejected by Secretary of State
22-054	08/03/2021	Proposed Constitutional Amendment - Article XIV, version 2 (McSwain) - Cannabis Legalization and Changes to Medical Marijuana Provisions	Rejected by Secretary of State
22-053	08/03/2021	Proposed Constitutional Amendment - Article XIV, version 1 (McSwain) - Cannabis Legalization and Changes to Medical Marijuana Provisions	Rejected by Secretary of State
22-052	07/30/2021	**Proposed Constitutional Amendment - Article VIII, version 2 (Roland) - Election Reform**	08/27/2021
22-051	07/30/2021	**Proposed Constitutional Amendment - Article VIII, version 1 (Roland) - Election Reform**	08/27/2021
22-050	07/16/2021	Proposed Constitutional Amendment - Article VIII, version 2 (Roland) - Election Reform	Rejected by Secretary of State
22-049	07/16/2021	Proposed Constitutional Amendment - Article VIII, version 1 (Roland) - Election Reform	Rejected by Secretary of State
22-048	07/15/2021	**Proposed Constitutional Amendment - Article XIV (McSwain) - Changes to Medical Marijuana Provisions**	08/17/2021
22-047	07/15/2021	Proposed Constitutional Amendment - Articles XIV and XIX, version 2 (McSwain) - Cannabis Legalization and Changes to Medical Marijuana Provisions	Rejected by Secretary of State
22-046	07/15/2021	Proposed Constitutional Amendment - Articles XIV and XIX, version 1 (McSwain) - Cannabis Legalization and Changes to Medical Marijuana Provisions	Rejected by Secretary of State
22-045	07/13/2021	Proposed Constitutional Amendment - Article XIX (McSwain) - Cannabis Legalization	Rejected by Secretary of State
22-044	07/13/2021	Proposed Constitutional Amendment - Articles XIV and XIX, version 3 (McSwain) - Cannabis Legalization and Changes to Medical Marijuana Provisions	Rejected by Secretary of State
22-043	07/13/2021	Proposed Constitutional Amendment - Articles XIV and XIX, version 2 (McSwain) - Cannabis Legalization and Changes to Medical Marijuana Provisions	Rejected by Secretary of State
22-042	07/13/2021	Proposed Constitutional Amendment - Articles XIV and XIX, version 1 (McSwain) - Cannabis Legalization and Changes to Medical Marijuana Provisions	Rejected by Secretary of State
22-041	07/06/2021	**Proposed Constitutional Amendment - Article III (Hubbard) - Rights During a Local or State of Emergency**	08/06/2021
22-040	06/29/2021	Proposed Constitutional Amendment - Article III (Hubbard) - Rights During a Local or State of Emergency	Rejected by Secretary of State
22-039	06/25/2021	Proposed Constitutional Amendment - Article III (Hubbard) - Rights During a Local or State of Emergency	Rejected by Secretary of State

22-038	06/02/2021	**Proposed Constitutional Amendment - Article XXX (Shaffer) - Election Integrity Procedures**	07/06/2021
22-037	06/02/2021	**Proposed Constitutional Amendment - Article XXIX (Shaffer) - Duty of Federal Government to Uphold the Bill of Rights and Constitution**	Rejected by Secretary of State
22-036	06/02/2021	**Proposed Constitutional Amendment - Article XXVIII (Shaffer) - Missouri Bill of Rights**	07/06/2021
22-035	05/14/2021	Proposed Constitutional Amendment - Article XXX (Shaffer) - Election Integrity Procedures	Rejected by Secretary of State
22-034	05/14/2021	Proposed Constitutional Amendment - Article XXIX (Shaffer) - Duty of Federal Government to Uphold the Bill of Rights and Constitution	Rejected by Secretary of State
22-033	05/14/2021	Proposed Constitutional Amendment - Article XXVIII (Shaffer) - Missouri Bill of Rights	Rejected by Secretary of State
22-032	05/03/2021	**Proposal Related to Chapter 290, RSMo, version 6 (D'Souza) - Employee Sick Time**	06/02/2021
22-031	05/03/2021	**Proposal Related to Chapter 290, RSMo, version 5 (D'Souza) - Employee Sick Time**	06/02/2021
22-030	05/03/2021	**Proposal Related to Chapter 290, RSMo, version 4 (D'Souza) - Employee Sick Time**	06/02/2021
22-029	05/03/2021	**Proposal Related to Chapter 290, RSMo, version 3 (D'Souza) - Employee Sick Time**	06/02/2021
22-028	05/03/2021	**Proposal Related to Chapter 290, RSMo, version 2 (D'Souza) - Employee Sick Time**	06/02/2021
22-027	05/03/2021	**Proposal Related to Chapter 290, RSMo, version 1 (D'Souza) - Employee Sick Time**	06/02/2021
22-026	04/27/2021	Proposed Constitutional Amendment - Article XXX (Shaffer) - Election Integrity Procedures	Rejected by Secretary of State
22-025	04/27/2021	Proposed Constitutional Amendment - Article XXIX (Shaffer) - Duty of Federal Government to Uphold the Bill of Rights and Constitution	Rejected by Secretary of State
22-024	04/27/2021	Proposed Constitutional Amendment - Article XXVIII (Shaffer) - Missouri Bill of Rights	Rejected by Secretary of State
22-023	03/23/2021	**Proposed Constitutional Amendment - Article XIV (Pedersen) - Missouri Cannabis Restoration and Protection**	04/23/2021
22-022	03/19/2021	Proposed Constitutional Amendment - Article XXX (Shaffer) - Election Integrity Procedures	Rejected by Secretary of State
22-021	03/19/2021	Proposed Constitutional Amendment - Article XXIX (Shaffer) - Duty of Federal Government to Uphold the Bill of Rights and Constitution	Rejected by Secretary of State
22-020	03/19/2021	Proposed Constitutional Amendment - Article XXVIII (Shaffer) - Missouri Bill of Rights	Rejected by Secretary of State
22-019	03/09/2021	**Proposed Constitutional Amendment - Article III, version 2 (Apple) - Election Reform**	04/09/2021

22-018	03/09/2021	**Proposed Constitutional Amendment - Article III, version 1 (Apple) - Election Reform**	04/09/2021
22-017	03/04/2021	**Proposed Constitutional Amendment - Article I (Apple) - Voter-designated General Assembly Proxies**	04/05/2021
22-016	03/01/2021	**Proposed Constitutional Amendment - Article V (Vas) - Election of Judges**	03/29/2021
22-015	02/19/2021	**Proposal Related to Chapter 407, RSMo (Vitale) - Digital Electronic Equipment Servicing**	03/22/2021
22-014	02/04/2021	Proposed Constitutional Amendment - Article V (Vitale) - Election of Judges	Rejected by Secretary of State
22-013	01/21/2021	Proposal Related to Chapter 407, RSMo (Vitale) - Digital Electronic Equipment Servicing	Rejected by Secretary of State
22-012	01/19/2021	**Proposed Constitutional Amendment - Article XII (Meyer) - Initiative Petitions**	02/19/2021
22-011	01/19/2021	**Proposed Constitutional Amendment - Article I (Meyer) - Court Awarded Damages**	02/19/2021
22-010	01/19/2021	**Proposed Constitutional Amendment - Article I (Meyer) - Collective Bargaining**	02/19/2021
22-009	01/12/2021	Proposal Related to Chapter 407, RSMo (Vitale) - Digital Electronic Equipment Servicing	Rejected by Secretary of State
22-008	01/11/2021	Proposal Related to Chapter 407, RSMo (Vitale) - Digital Electronic Equipment Servicing	Rejected by Secretary of State
22-007	01/05/2021	**Proposed Constitutional Amendment - Article III (Apple) - Election Reform**	02/04/2021
22-006	12/30/2020	**Proposed Constitutional Amendment - Article V, version 2 (Vas) - Election of Judges**	02/01/2021
22-005	12/30/2020	**Proposed Constitutional Amendment - Article V, version 1 (Vas) - Appointment of Judges**	02/01/2021
22-004	12/30/2020	**Proposed Constitutional Amendment - Article I (Vas) - Freedom to Work**	02/01/2021
22-003	12/29/2020	Proposed Constitutional Amendment - Article III (Apple) - Election Reform	Withdrawn by Petitioner 01/05/21
22-002	11/25/2020	Proposed Constitutional Amendment - Article I (Meyer) - Court Awarded Damages	Rejected by Secretary of State
22-001	11/25/2020	Proposed Constitutional Amendment - Article I (Meyer) - Collective Bargaining	Rejected by Secretary of State

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 23, 2022

RECEIVED
MAY 23 2022
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Fiscal Note and Fiscal Note Summary Request for Senate Substitute No. 2 for Senate Joint Resolution No. 38

Dear Ms. Galloway:

Enclosed please find a copy of Senate Substitute No. 2 for Senate Joint Resolution No. 38 that was received by our office.

We are referring the enclosed joint resolution to you for the purposes of preparing a fiscal note and fiscal note summary in accordance with Sections 116.160.1, 116.170 and 116.175, RSMo. As you are aware, the fiscal note and fiscal note summary are required to be forwarded by you to our office within thirty days of receipt of the joint resolution, pursuant to Section 116.170, RSMo.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft
Secretary of State

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

RECEIVED
MAY 18 2022
MO. SECRETARY OF STATE

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE SUBSTITUTE NO. 2 FOR

SENATE JOINT RESOLUTION NO. 38

101ST GENERAL ASSEMBLY
2022

3825S.07T

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment repealing section 21 of article X of the Constitution of Missouri, and adopting one new section in lieu thereof relating to the funding of law enforcement agencies.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2022, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article X of the Constitution of the state of Missouri:

Section A. Section 21, article X, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 21, to read as follows:

Section 21. 1. The state is hereby prohibited from reducing the state financed proportion of the costs of any existing activity or service required of counties and other political subdivisions. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the general assembly or any state agency of counties or other political subdivisions, unless a state appropriation is made

and disbursed to pay the county or other political subdivision for any increased costs.

2. Notwithstanding the foregoing prohibitions, before December 31, 2026, the general assembly may by law increase minimum funding for a police force established by a state board of police commissioners to ensure such police force has additional resources to serve its communities.

Section B. Pursuant to chapter 116, and other applicable constitutional provisions and laws of this state allowing the general assembly to adopt ballot language for the submission of this joint resolution to the voters of this state, the official summary statement of this resolution shall be as follows:

"Shall the Missouri Constitution be amended to authorize laws, passed before December 31, 2026, that increase minimum funding for a police force established by a state board of police commissioners to ensure such police force has additional resources to serve its communities?"

✓

President of the Senate

Speaker of the House of Representatives

RECEIVED
MAY 13 2022
SECRETARY OF STATE
CAPITOL OFFICE

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-SJR 38)

Subject

Senate Substitute No. 2 for Senate Joint Resolution No. 38. (Received May 23, 2022)

Date

June 10, 2022

Description

This proposal would amend Article X of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** and the **Kansas City Board of Police Commissioners.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their

office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact to their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated they do not anticipate an impact.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this resolution, if passed, will have no anticipated cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this senate joint resolution proposing to amend Article X.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their office.

Officials from the **Department of Public Safety - Missouri State Highway Patrol** indicated they anticipate no fiscal impact.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to funding local police departments should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated this senate joint resolution will have no fiscal impact on their department.

Officials from the **Department of Transportation** indicated no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to funding local police departments should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of

their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from the **City of Jefferson** indicated they would not anticipate any direct costs (or savings) specifically to their city as a result of this resolution being adopted. One might speculate on what such a board might decide, that decision could have an impact on the city.

Officials from the **City of Kansas City** indicated if this amendment is approved by the voters it will have a negative fiscal impact on their city because it will provide authorization to the implementation of the state legislature's recently passed Senate Bill 678 that increases the amount that Kansas City must fund its police department from 20% to 25% of the City's general revenue. Kansas City expect the maximum 25% to be reached every year.

The increase for Kansas City in terms of an estimated dollar amount by increasing the amount that Kansas City must fund its police department from 20% to 25% of the city's general revenue is $38,743,646.

This is calculated based on the Fiscal Year 23 Submitted Budget:

20% of General Revenue from such budget - $154,974,583
25% of General Revenue from such budget- $193,718,228

Difference - $38,743,646

Under current law, the city is allowed to exercise its legislative prerogative to fund the State Board of Police Commissioners at a level in excess of the statutory amount. If Senate Bill 678 is signed or otherwise becomes law, and if the amendment is approved, it could obligate the City of Kansas City, Missouri to appropriate an additional 5% of its general revenue in response to a budget prepared by the State Board of Police Commissioners. A change to the percentage would limit the city's budgetary flexibility and necessitate a reduction in other services the city provides of up to 5% of its general revenues. Based on the city's most recent budgeted calculation of general revenue, the resolution could increase the city's mandatory funding for the police and decrease its funding for other services funded by general revenue, including but not limited to, fire protection services, roadway and infrastructure maintenance, and other municipal services by more than $38.7 million.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri** indicated this senate joint resolution is not anticipated to have a significant impact on their university.

Officials from the **Kansas City Police Department and the Kansas City Board of Police Commissioners** indicated:

Police
KC/MO
Joseph E. Mabin Jr.
Chief of Police

Headquarters Building

1125 Locust
Kansas City, Missouri 64106
www.kcpd.org

Office (816) 234-5000

June 6, 2022

Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Fiscal Note for Senate Substitute No. 2 for Senate Joint Resolution No. 38

The Kansas City Missouri Police Department is tasked with policing a city with a population of approximately 500,000 and nearly 320 square miles. The Police Department must maintain law enforcement staff that can adequately respond to the needs of the community.

In Fiscal Year 2022, the City determined that the Police Department received 25.8% of its general revenue. This was $1.8 million less than appropriated in the Fiscal Year 2020 (pre-COVID), and there has been an increase of $2.35 million in just health insurance since that time. This is just one of many items that increased our budget without additional funding. In addition, in the Fiscal Year 2020, the department was funded at full staffing. Currently, with the department being underfunded, the department will continue to be understaffed if funding is not proportionate to increasing costs.

Currently, the department's general fund is 93.8% personnel costs. If the Police Department funding were to continue at 20%, it would remain less than what the City has been funding, and would not support personnel and the bare minimum in other costs that are necessary to operate the Police Department. The current 20% does not allow the Police Department to police the city properly and is a detriment to the community that we serve.

Major Derek McCollum
Commander
Fiscal Division

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State and local governmental entities estimate no additional costs or savings related to this proposal.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 28, 2021

RECEIVED
JUN 01 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Jeremy Cady regarding a proposed referendum petition for Senate Substitute 2 for Senate Committee Substitute for Senate Bill 262 (2022-R002)

Dear Auditor Galloway:

Enclosed please find a referendum petition sample sheet for Senate Substitute 2 for Senate Committee Substitute for Senate Bill 262 filed by Jeremy Cady on May 28, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

PETITION FOR REFERENDUM

Page No. _____

22-R002

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order the Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 262, entitled "AN ACT To repeal sections 142.803, 142.824, 142.869, 301.192, 301.280, 302.755, 407.526, 407.536, and 407.556, RSMo, and to enact in lieu thereof eleven new sections relating to transportation, with penalty provisions," passed by the 101st general assembly of the state of Missouri, at the first regularsession of the 101st general assembly, shall be referred to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, unless the general assembly shall designate another date, and each for himself orherself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after myname.

RECEIVED
2021 MAY 28 PM 1:35

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

FIRST REGULAR SESSION

[CORRECTED]

[TRULY AGREED TO AND FINALLY PASSED]

SENATE SUBSTITUTE NO. 2 FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 262

101ST GENERAL ASSEMBLY
2021

1143S.11T

AN ACT

To repeal sections 142.803, 142.824, 142.869, 301.192, 301.280, 302.755, 407.526, 407.536, and 407.556, RSMo, and to enact in lieu thereof eleven new sections relating to transportation, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 142.803, 142.824, 142.869, 301.192, 301.280, 302.755, 407.526, 407.536, and 407.556, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 142.803, 142.822, 142.824, 142.869, 142.1000, 301.192, 301.280, 302.755, 407.526, 407.536, and 407.556, to read as follows:

142.803. 1. A tax is levied and imposed on all motor fuel used or consumed in this state as follows:

(1) Motor fuel, seventeen cents per gallon;

(2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly sold or measured by the gallon, is used in motor vehicles on the highways of this state, the director is authorized to assess and collect a tax upon such alternative fuel measured by the nearest power potential

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

equivalent to that of one gallon of regular grade gasoline. The determination by the director of the power potential equivalent of such alternative fuel shall be prima facie correct;

(3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per gallon as levied and imposed by section 155.080 to be collected as required under this chapter;

(4) Compressed natural gas fuel, five cents per gasoline gallon equivalent until December 31, 2019, eleven cents per gasoline gallon equivalent from January 1, 2020, until December 31, 2024, and then seventeen cents per gasoline gallon equivalent thereafter. The gasoline gallon equivalent and method of sale for compressed natural gas shall be as published by the National Institute of Standards and Technology in Handbooks 44 and 130, and supplements thereto or revisions thereof. In the absence of such standard or agreement, the gasoline gallon equivalent and method of sale for compressed natural gas shall be equal to five and sixty-six-hundredths pounds of compressed natural gas. All applicable provisions contained in this chapter governing administration, collections, and enforcement of the state motor fuel tax shall apply to the tax imposed on compressed natural gas, including but not limited to licensing, reporting, penalties, and interest;

(5) Liquefied natural gas fuel, five cents per diesel gallon equivalent until December 31, 2019, eleven cents per diesel gallon equivalent from January 1, 2020, until December 31, 2024, and then seventeen cents per diesel gallon equivalent thereafter. The diesel gallon equivalent and method of sale for liquefied natural gas shall be as published by the National Institute of Standards and

Technology in Handbooks 44 and 130, and supplements thereto or revisions thereof. In the absence of such standard or agreement, the diesel gallon equivalent and method of sale for liquefied natural gas shall be equal to six and six-hundredths pounds of liquefied natural gas. All applicable provisions contained in this chapter governing administration, collections, and enforcement of the state motor fuel tax shall apply to the tax imposed on liquefied natural gas, including but not limited to licensing, reporting, penalties, and interest;

(6) Propane gas fuel, five cents per gallon until December 31, 2019, eleven cents per gallon from January 1, 2020, until December 31, 2024, and then seventeen cents per gallon thereafter. All applicable provisions contained in this chapter governing administration, collection, and enforcement of the state motor fuel tax shall apply to the tax imposed on propane gas including, but not limited to, licensing, reporting, penalties, and interest;

(7) If a natural gas, compressed natural gas, liquefied natural gas, electric, or propane connection is used for fueling motor vehicles and for another use, such as heating, the tax imposed by this section shall apply to the entire amount of natural gas, compressed natural gas, liquefied natural gas, electricity, or propane used unless an approved separate metering and accounting system is in place.

2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be precollected as described in this chapter, for the facility and convenience of the consumer. The levy and assessment on other persons as specified in this chapter shall be as agents of this state for the precollection of the tax.

3. In addition to any tax collected under subdivision (1) of subsection 1 of this section, the following tax is levied and imposed on all motor fuel used or consumed in this state, subject to the exemption on tax liability set forth in section 142.822: from October 1, 2021, to June 30, 2022, two and a half cents per gallon; from July 1, 2022, to June 30, 2023, five cents per gallon; from July 1, 2023, to June 30, 2024, seven and a half cents per gallon; from July 1, 2024, to June 30, 2025, ten cents per gallon; and on and after July 1, 2025, twelve and a half cents per gallon.

142.822. 1. Motor fuel used for purposes of propelling motor vehicles on highways shall be exempt from the fuel tax collected under subsection 3 of section 142.803, and an exemption and refund may be claimed by the taxpayer if the tax has been paid and no refund has been previously issued, provided that the taxpayer applies for the exemption and refund as specified in this section. The exemption and refund shall be issued on a fiscal year basis to each person who pays the fuel tax collected under subsection 3 of section 142.803 and who claims an exemption and refund in accordance with this section, and shall apply so that the fuel taxpayer has no liability for the tax collected in that fiscal year under subsection 3 of section 142.803.

2. To claim an exemption and refund in accordance with this section, a person shall present to the director a statement containing a written verification that the claim is made under penalty of perjury and that states the total fuel tax paid in the applicable fiscal year for each vehicle for which the exemption and refund is claimed. The claim shall not be transferred or assigned, and shall be filed on or after July first, but not later than September thirtieth,

following the fiscal year for which the exemption and refund is claimed. The claim statement may be submitted electronically, and shall at a minimum include the following information:

(1) Vehicle identification number of the motor vehicle into which the motor fuel was delivered;

(2) Date of sale;

(3) Name and address of purchaser;

(4) Name and address of seller;

(5) Number of gallons purchased; and

(6) Number of gallons purchased and charged Missouri fuel tax, as a separate item.

3. Every person shall maintain and keep records supporting the claim statement filed with the department of revenue for a period of three years to substantiate all claims for exemption and refund of the motor fuel tax, together with invoices, original sales receipts marked paid by the seller, bills of lading, and other pertinent records and paper as may be required by the director for reasonable administration of this chapter.

4. The director may make any investigation necessary before issuing an exemption and refund under this section, and may investigate an exemption and refund under this section after it has been issued and within the time frame for making adjustments to the tax pursuant to this chapter.

5. If an exemption and refund is not issued within forty-five days of an accurate and complete filing, as required by this chapter, the director shall pay interest at the rate provided in section 32.065 accruing after the expiration of the forty-five-day period until the date the exemption and refund is issued.

6. The exemption and refund specified in this section shall be available only with regard to motor fuel delivered into a motor vehicle with a gross weight, as defined in section 301.010, of twenty-six thousand pounds or less.

7. The director shall promulgate rules as necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

142.824. 1. To claim a refund in accordance with section 142.815, a person shall present to the director a statement containing a written verification that the claim is made under penalties of perjury and lists the total amount of motor fuel purchased and used for exempt purposes. The claim shall not be transferred or assigned and shall be filed not more than three years after the date the motor fuel was imported, removed or sold if the claimant is a supplier, importer, exporter or distributor. If the claim is filed by the ultimate consumer, a consumer must file the claim within one year of the date of purchase or April fifteenth following the year of purchase, whichever is later. The claim statement **may be submitted electronically, and** shall be supported by **[**the original sales slip, invoice

or other] documentation as approved by the director and shall include the following information:

(1) Date of sale;

(2) Name and address of purchaser;

(3) Name and address of seller;

(4) Number of gallons purchased and base price per gallon;

(5) Number of gallons purchased and charged Missouri fuel tax, as a separate item; **and**

(6) Number of gallons purchased and charged sales tax, if applicable, as a separate item[;

(7) Marked paid by the seller].

2. If the original sales slip or invoice is lost or destroyed, a statement to that effect shall accompany the claim for refund, and the claim statement shall also set forth the serial number of the invoice. If the director finds the claim is otherwise regular, the director may allow such claim for refund.

3. The director may make any investigation necessary before refunding the motor fuel tax to a person and may investigate a refund after the refund has been issued and within the time frame for making adjustments to the tax pursuant to this chapter.

4. In any case where a refund would be payable to a supplier pursuant to this chapter, the supplier may claim a credit in lieu of such refund for a period not to exceed three years.

5. Every person shall maintain and keep for a period of three years records to substantiate all claims for refund of the motor fuel tax, together with invoices, **original sales slips marked paid by the seller,** bills of lading, and

other pertinent records and paper as may be required by the director for reasonable administration of this chapter.

6. Motor fuel tax that has been paid more than once with respect to the same gallon of motor fuel shall be refunded by the director to the person who last paid the tax after the subsequent taxable event upon submitting proof satisfactory to the director.

7. Motor fuel tax that has otherwise been erroneously paid by a person shall be refunded by the director upon proof shown satisfactory to the director.

8. [If a refund is not issued within ninety days of an accurate and complete filing, as required by this chapter, the director shall pay interest at the rate set out in section 32.065 accruing after the expiration of the ninety-day period until the date the refund is issued. After December 31, 2000,] If a refund is not issued within [thirty] **forty-five** days of an accurate and complete filing, as required by this chapter, the director shall pay interest at the rate provided in section 32.065 accruing after the expiration of the [thirty-day] **forty-five-day** period until the date the refund is issued.

9. The director shall promulgate rules as necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of

rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

142.869. 1. The tax imposed by this chapter shall not apply to passenger motor vehicles, buses as defined in section 301.010, or commercial motor vehicles registered in this state which are powered by alternative fuel, and for which a valid decal has been acquired as provided in this section, provided that sales made to alternative fueled vehicles powered by propane, compressed natural gas, or liquefied natural gas that do not meet the requirements of subsection 3 of this section shall be taxed exclusively pursuant to subdivisions (4) to (7) of subsection 1 of section 142.803, respectively. The owners or operators of such motor vehicles, except plug-in electric hybrids, shall, in lieu of the tax imposed by section 142.803, pay an annual alternative fuel decal fee as follows: seventy-five dollars on each passenger motor vehicle, school bus as defined in section 301.010, and commercial motor vehicle with a licensed gross vehicle weight of eighteen thousand pounds or less; one hundred dollars on each motor vehicle with a licensed gross weight in excess of eighteen thousand pounds but not more than thirty-six thousand pounds used for farm or farming transportation operations and registered with a license plate designated with the letter "F"; one hundred fifty dollars on each motor vehicle with a licensed gross vehicle weight in excess of eighteen thousand pounds but less than or equal to thirty-six thousand pounds, and each passenger-carrying motor vehicle subject to the registration fee provided in sections 301.059, 301.061 and 301.063; two hundred fifty dollars on each motor vehicle with a licensed gross weight in excess of thirty-six thousand pounds used for farm or farming transportation operations and registered

with a license plate designated with the letter "F"; and one thousand dollars on each motor vehicle with a licensed gross vehicle weight in excess of thirty-six thousand pounds. Owners or operators of plug-in electric hybrids shall pay one-half of the stated annual alternative fuel decal fee. Notwithstanding provisions of this section to the contrary, motor vehicles licensed as historic under section 301.131 which are powered by alternative fuel shall be exempt from both the tax imposed by this chapter and the alternative fuel decal requirements of this section. For the purposes of this section, a plug-in electric hybrid shall be any hybrid vehicle made by a manufacturer with a model year of 2018 or newer, that has not been modified from the original manufacturer specifications, with an internal combustion engine and batteries that can be recharged by connecting a plug to an electric power source.

2. **Beginning January 1, 2022, the fees in subsection 1 of this section shall be increased by twenty percent of the fee in effect on August 28, 2021, per year for a period of five years, except that the fee for motor vehicles with a licensed gross vehicle weight in excess of thirty-six thousand pounds shall be increased by ten percent of the fee in effect on August 28, 2021, per year for a period of five years.**

3. Except interstate fuel users and vehicles licensed under a reciprocity agreement as defined in section 142.617, the tax imposed by section 142.803 shall not apply to motor vehicles registered outside this state which are powered by alternative fuel other than propane, compressed natural gas, and liquefied natural gas, and for which a valid temporary alternative fuel decal has been acquired as provided in this section. The owners or operators of such motor vehicles

shall, in lieu of the tax imposed by section 142.803, pay a temporary alternative fuel decal fee of eight dollars on each such vehicle. Such decals shall be valid for a period of fifteen days from the date of issuance and shall be attached to the lower right-hand corner of the front windshield on the motor vehicle for which it was issued. Such decal and fee shall not be transferable. All proceeds from such decal fees shall be deposited as specified in section 142.345. Alternative fuel dealers selling such decals in accordance with rules and regulations prescribed by the director shall be allowed to retain fifty cents for each decal fee timely remitted to the director.

[3.] **4.** Owners or operators of passenger motor vehicles, buses as defined in section 301.010, or commercial motor vehicles registered in this state which are powered by compressed natural gas or liquefied natural gas who have installed a compressed natural gas fueling station or liquefied natural gas fueling station used solely to fuel the motor vehicles they own or operate as of December 31, 2015, may continue to apply for and use the alternative fuel decal in lieu of paying the tax imposed under subdivisions (4) and (5) of subsection 1 of section 142.803. Owners or operators of compressed natural gas fueling stations or liquefied natural gas fueling stations whose vehicles bear an alternative fuel decal shall be prohibited from selling or providing compressed natural gas or liquefied natural gas to any motor vehicle they do not own or operate. Owners or operators of motor vehicles powered by compressed natural gas or liquefied natural gas bearing an alternative fuel decal after January 1, 2016, that decline to renew the alternative fuel decals for such motor vehicles shall no longer be eligible to apply for and use alternative fuel

decals under this subsection. Any compressed natural gas or liquefied natural gas obtained at any fueling station not owned by the owner or operator of the motor vehicle bearing an alternative fuel decal shall be subject to the tax under subdivisions (4) and (5) of subsection 1 of section 142.803.

[4.] **5.** An owner or operator of a motor vehicle powered by propane may continue to apply for and use the alternative fuel decal in lieu of paying the tax imposed under subdivision (6) of subsection 1 of section 142.803. If the appropriate motor fuel tax under subdivision (6) of subsection 1 of section 142.803 is collected at the time of fueling, an operator of a propane fueling station that uses quick-connect fueling nozzles may sell propane as a motor fuel without verifying the application of a valid Missouri alternative fuel decal. If an owner or operator of a motor vehicle powered by propane that bears an alternative fuel decal refuels at an unattended propane refueling station, such owner or operator shall not be eligible for a refund of the motor fuel tax paid at such refueling.

[5.] **6.** The director shall annually, on or before January thirty-first of each year, collect or cause to be collected from owners or operators of the motor vehicles specified in subsection 1 of this section the annual decal fee. Applications for such decals shall be supplied by the department of revenue. In the case of a motor vehicle which is not in operation by January thirty-first of any year, a decal may be purchased for a fractional period of such year, and the amount of the decal fee shall be reduced by one-twelfth for each complete month which shall have elapsed since the beginning of such year. This subsection shall not apply to an owner or operator of a motor vehicle powered by

propane who fuels such vehicle exclusively at unattended fueling stations that collect the motor fuel tax.

[6.] **7.** Upon the payment of the fee required by subsection 1 of this section, the director shall issue a decal, which shall be valid for the current calendar year and shall be attached to the lower right-hand corner of the front windshield on the motor vehicle for which it was issued.

[7.] **8.** The decal fee paid pursuant to subsection 1 of this section for each motor vehicle shall be transferable upon a change of ownership of the motor vehicle and, if the LP gas or natural gas equipment is removed from a motor vehicle upon a change of ownership and is reinstalled in another motor vehicle, upon such reinstallation. Such transfers shall be accomplished in accordance with rules and regulations promulgated by the director.

[8.] **9.** It shall be unlawful for any person to operate a motor vehicle required to have an alternative fuel decal upon the highways of this state without a valid decal unless the motor vehicle is exclusively fueled at propane, compressed natural gas, or liquefied natural gas fueling stations that collect the motor fuel tax.

[9.] **10.** No person shall cause to be put, or put, any alternative fuel into the fuel supply receptacle or battery of a motor vehicle required to have an alternative fuel decal unless the motor vehicle either has a valid decal attached to it or the appropriate motor fuel tax is collected at the time of such fueling.

[10.] **11.** Any person violating any provision of this section is guilty of an infraction and shall, upon conviction thereof, be fined five hundred dollars.

[11.] 12. Motor vehicles displaying a valid alternative fuel decal are exempt from the licensing and reporting requirements of this chapter.

142.1000. 1. There is hereby created within the department of revenue the "Electric Vehicle Task Force" to consist of the following members:

(1) The director of the department of revenue, or his or her designee, who shall serve as chair;

(2) The chairman of the public service commission, or his or her designee, who shall serve as vice chair;

(3) The director of the department of transportation, or his or her designee;

(4) One member of the senate committee with jurisdiction over transportation matters, to be appointed by the president pro tempore of the senate;

(5) One member of the house of representatives committee with jurisdiction over transportation matters, to be appointed by the speaker of the house of representatives;

(6) One member of the senate committee with jurisdiction over transportation matters, to be appointed by the minority floor leader of the senate;

(7) One member of the house of representatives committee with jurisdiction over transportation matters, to be appointed by the minority floor leader of the house of representatives;

(8) One representative of the trucking or heavy vehicle industry, to be appointed by the president pro tempore of the senate;

(9) One representative of electric vehicle manufacturers or dealers, to be appointed by the speaker of the house of representatives;

(10) One representative of conventional motor vehicle manufacturers or dealers, to be appointed by the president pro tempore of the senate;

(11) One representative of the petroleum industry or convenience stores, to be appointed by the speaker of the house of representatives;

(12) One representative of electric vehicle charging station manufacturers or operators, to be appointed by the president pro tempore of the senate; and

(13) One representative of electric utilities, to be appointed by the speaker of the house of representatives.

2. The task force shall analyze the following in the context of transportation funding, and make recommendations as to any actions the state should take to fund transportation infrastructure in anticipation of more widespread adoption of electric vehicles:

(1) Removal or mitigation of barriers to electric vehicle charging, including strategies, such as time-of-use rates, to reduce operating costs for current and future electric vehicle owners without shifting costs to electric ratepayers who do not own or operate electric vehicles;

(2) Strategies for managing the impact of electric vehicles on, and services provided for electric vehicles by, the electricity transmission and distribution system;

(3) Electric system benefits and costs of electric vehicle charging, electric utility planning for electric vehicle charging, and rate design for electric vehicle charging;

(4) The appropriate role of electric utilities with regard to the deployment and operation of electric vehicle charging systems;

(5) How and on what terms, including quantity, pricing, and time of day, charging stations owned or operated by entities other than electric utilities will obtain electricity to provide to electric vehicles;

(6) What safety standards should apply to the charging of electric vehicles;

(7) The recommended scope of the jurisdiction of the public service commission, the department of revenue, and other state agencies over charging stations owned or operated by entities other than electric utilities;

(8) Whether charging stations owned or operated by entities other than electric utilities will be free to set the rates or prices at which they provide electricity to electric vehicles, and any other issues relevant to the appropriate oversight of the rates and prices charged by such stations, including transparency to the consumer of those rates and prices; and

(9) The recommended billing and complaint procedures for charging stations;

(10) Options to address how electric vehicle users pay toward the cost of maintaining the state's transportation infrastructure, including methods to assess the impact of electric vehicles on that infrastructure and how to calculate a charge based on that impact, the potential assessment of a charge to electric vehicles as a rate per kilowatt hour delivered to an electric vehicle, varying such per-kilowatt-hour charge by size and type of electric vehicle, and phasing in such per-kilowatt-hour charge;

(11) The accuracy of electric metering and submetering technology for charging electric vehicles;

(12) Strategies to encourage electric vehicle usage without shifting costs to electric ratepayers who do not own or charge electric vehicles; and

(13) Any other issues the task force considers relevant.

3. The department of revenue shall provide such research, clerical, technical, and other services as the task force may require in the performance of its duties.

4. The task force may hold public meetings at which it may invite testimony from experts, or it may solicit information from any party it deems may have information relevant to its duties under this section.

5. No later than December 31, 2022, the task force shall provide to the general assembly and the governor a written report detailing its findings and recommendations, including identifying any recommendations that may require enabling legislation.

6. Members shall serve on the task force without compensation, but may, at the discretion of the director of the department of revenue, be reimbursed for actual and necessary expenses incurred in the performance of their official duties as members of the task force.

7. The task force shall expire on December 31, 2022.

301.192. 1. In addition to any other requirements of section 301.190, when application is made for a certificate of ownership for a motor vehicle or trailer seven years old or older and the value of vehicle does not exceed three thousand dollars, for which no record of any prior application for a certificate of ownership exists in the records of the director of revenue or for which the records of the director of revenue reflect incomplete or conflicting documentation of ownership, the director of revenue may

issue a certificate of ownership, not less than thirty days after receiving the completed application, provided it is accompanied by:

(1) An affidavit explaining how the motor vehicle or trailer was acquired and the reasons a valid certificate of ownership cannot be furnished;

(2) Presentation of all evidence of ownership in the applicant's possession;

(3) Title verification from a state in which the vehicle was previously titled or registered if known, provided the vehicle was so previously titled or registered;

(4) A notarized lien release from any lienholder of record;

(5) A vehicle examination certificate issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The vehicle examination shall include a verification of the vehicle's identification number and a determination that the vehicle has not been reported stolen in Missouri or any other state. The fee for the vehicle examination certificate shall be twenty-five dollars and shall be collected by the director of revenue at the time of the request for the application;

(6) A statement certifying the odometer reading of the motor vehicle if less than **[**ten**]** **twenty** years of age; and

(7) A surety bond or a suitable financial security instrument in a form prescribed by the director of revenue and executed by the applicant and a person authorized to conduct surety business in this state. The bond shall be an amount equal to two times the value of the vehicle as determined by the Kelly Blue Book, NADA Used Car Guide or two appraisals from a licensed motor vehicle dealer. The

bond shall be for a minimum of one hundred dollars and conditioned to indemnify any prior owner or lienholder and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage including reasonable attorneys fees, by reason of the issuance of the certificate of ownership of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of three years, unless the department has been notified of the pendency of an action to recover on the bond.

2. Upon satisfaction with the genuineness of the application and supporting documents, the director of revenue shall issue a new certificate of ownership. The certificate of ownership shall appropriately be designated with the words "BONDED VEHICLE".

301.280. 1. Every motor vehicle dealer and boat dealer shall make a monthly report to the department of revenue, on blanks to be prescribed by the department of revenue, giving the following information: date of the sale of each motor vehicle, boat, trailer and all-terrain vehicle sold; the name and address of the buyer; the name of the manufacturer; year of manufacture; model of vehicle; vehicle identification number; style of vehicle; odometer setting; and it shall also state whether the motor vehicle, boat, trailer or all-terrain vehicle is new or secondhand. Each monthly sales report filed by a motor vehicle dealer who collects sales tax under subsection 10 of section 144.070

shall also include the amount of state and local sales tax collected for each motor vehicle sold if sales tax was due. The odometer reading is not required when reporting the sale of any motor vehicle that is [ten] **twenty** years old or older, any motor vehicle having a gross vehicle weight rating of more than sixteen thousand pounds, new vehicles that are transferred on a manufacturer's statement of origin between one franchised motor vehicle dealer and another, or boats, all-terrain vehicles or trailers. The sale of all temporary permits shall be recorded in the appropriate space on the dealer's monthly sales report, unless the sale of the temporary permit is already recorded by electronic means as determined by the department. The monthly sales report shall include a statement of motor vehicles or trailers sold during the month under subsection 5 of section 301.210. The monthly sales report shall be completed in full and signed by an officer, partner, or owner of the dealership, and actually received by the department of revenue on or before the fifteenth day of the month succeeding the month for which the sales are being reported. If no sales occur in any given month, a report shall be submitted for that month indicating no sales. Any vehicle dealer who fails to file a monthly report or who fails to file a timely report shall be subject to disciplinary action as prescribed in section 301.562 or a penalty assessed by the director not to exceed three hundred dollars per violation. Every motor vehicle and boat dealer shall retain copies of the monthly sales report as part of the records to be maintained at the dealership location and shall hold them available for inspection by appropriate law enforcement officials and officials of the department of revenue. Every vehicle dealer selling twenty or more vehicles a month shall file

the monthly sales report with the department in an electronic format. Any dealer filing a monthly sales report in an electronic format shall be exempt from filing the notice of transfer required by section 301.196. For any dealer not filing electronically, the notice of transfer required by section 301.196 shall be submitted with the monthly sales report as prescribed by the director.

2. Every dealer and every person operating a public garage shall keep a correct record of the vehicle identification number, odometer setting, manufacturer's name of all motor vehicles or trailers accepted by him for the purpose of sale, rental, storage, repair or repainting, together with the name and address of the person delivering such motor vehicle or trailer to the dealer or public garage keeper, and the person delivering such motor vehicle or trailer shall record such information in a file kept by the dealer or garage keeper. The record shall be kept for five years and be open for inspection by law enforcement officials, members or authorized or designated employees of the Missouri highway patrol, and persons, agencies and officials designated by the director of revenue.

3. Every dealer and every person operating a public garage in which a motor vehicle remains unclaimed for a period of fifteen days shall, within five days after the expiration of that period, report the motor vehicle as unclaimed to the director of revenue. Such report shall be on a form prescribed by the director of revenue. A motor vehicle left by its owner whose name and address are known to the dealer or his employee or person operating a public garage or his employee is not considered unclaimed. Any dealer or person operating a public garage who fails to report a motor vehicle as unclaimed as herein required

forfeits all claims and liens for its garaging, parking or storing.

4. The director of revenue shall maintain appropriately indexed cumulative records of unclaimed vehicles reported to the director. Such records shall be kept open to public inspection during reasonable business hours.

5. The alteration or obliteration of the vehicle identification number on any such motor vehicle shall be prima facie evidence of larceny, and the dealer or person operating such public garage shall upon the discovery of such obliteration or alteration immediately notify the highway patrol, sheriff, marshal, constable or chief of police of the municipality where the dealer or garage keeper has his place of business, and shall hold such motor vehicle or trailer for a period of forty-eight hours for the purpose of an investigation by the officer so notified.

6. Any person who knowingly makes a false statement or omission of a material fact in a monthly sales report to the department of revenue, as described in subsection 1 of this section, shall be deemed guilty of a class A misdemeanor.

302.755. 1. A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:

(1) Driving a motor vehicle under the influence of alcohol or a controlled substance, or of an alcohol-related enforcement contact as defined in subsection 3 of section 302.525;

(2) Driving a commercial motor vehicle which causes a fatality through the negligent operation of the commercial motor vehicle, including but not limited to the offenses of

vehicular manslaughter, homicide by motor vehicle, and negligent homicide;

(3) Driving a commercial motor vehicle while revoked pursuant to section 302.727;

(4) Leaving the scene of an accident involving a commercial or noncommercial motor vehicle operated by the person;

(5) Using a commercial or noncommercial motor vehicle in the commission of any felony, as defined in section 302.700, except a felony as provided in subsection 4 of this section.

2. If any of the violations described in subsection 1 of this section occur while transporting a hazardous material the person is disqualified for a period of not less than three years.

3. Any person is disqualified from operating a commercial motor vehicle for life if convicted of two or more violations of any of the offenses specified in subsection 1 of this section, or any combination of those offenses, arising from two or more separate incidents. The director may issue rules and regulations, in accordance with guidelines established by the Secretary, under which a disqualification for life under this section may be reduced to a period of not less than ten years.

4. Any person is disqualified from driving a commercial motor vehicle for life who uses a commercial or noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

5. Any person is disqualified from operating a commercial motor vehicle for a period of not less than sixty

days if convicted of two serious traffic violations or one hundred twenty days if convicted of three serious traffic violations, arising from separate incidents occurring within a three-year period.

6. Any person found to be operating a commercial motor vehicle while having any measurable alcohol concentration shall immediately be issued a continuous twenty-four-hour out-of-service order by a law enforcement officer in this state.

7. Any person who is convicted of operating a commercial motor vehicle beginning at the time of issuance of the out-of-service order until its expiration is guilty of a class A misdemeanor.

8. Any person convicted for the first time of driving while out of service shall be disqualified from driving a commercial motor vehicle in the manner prescribed in 49 CFR 383, or as amended by the Secretary.

9. Any person convicted of driving while out of service on a second occasion during any ten-year period, involving separate incidents, shall be disqualified in the manner prescribed in 49 CFR 383, or as amended by the Secretary.

10. Any person convicted of driving while out of service on a third or subsequent occasion during any ten-year period, involving separate incidents, shall be disqualified for a period of three years.

11. Any person convicted of a first violation of an out-of-service order while transporting hazardous materials or while operating a motor vehicle designed to transport sixteen or more passengers, including the driver, is disqualified for a period of one hundred eighty days.

12. Any person convicted of any subsequent violation of an out-of-service order in a separate incident within ten years after a previous violation, while transporting hazardous materials or while operating a motor vehicle designed to transport fifteen passengers, including the driver, is disqualified for a period of three years.

13. Any person convicted of any other offense as specified by regulations promulgated by the Secretary of Transportation shall be disqualified in accordance with such regulations.

14. After suspending, revoking, cancelling, or disqualifying a driver, the director shall update records to reflect such action and notify a nonresident's licensing authority and the commercial driver's license information system within ten days in the manner prescribed in 49 CFR 384, or as amended by the Secretary.

15. Any person disqualified from operating a commercial motor vehicle pursuant to subsection 1, 2, 3 or 4 of this section shall have such commercial driver's license cancelled, and upon conclusion of the period of disqualification shall take the written and driving tests and meet all other requirements of sections 302.700 to 302.780. Such disqualification and cancellation shall not be withdrawn by the director until such person reapplies for a commercial driver's license in this or any other state after meeting all requirements of sections 302.700 to 302.780.

16. The director shall disqualify a driver upon receipt of notification that the Secretary has determined a driver to be an imminent hazard pursuant to 49 CFR 383.52. Due process of a disqualification determined by the Secretary pursuant to this section shall be held in

accordance with regulations promulgated by the Secretary. The period of disqualification determined by the Secretary pursuant to this section shall be served concurrently to any other period of disqualification which may be imposed by the director pursuant to this section. Both disqualifications shall appear on the driving record of the driver.

17. The director shall disqualify a commercial license holder or operator of a commercial motor vehicle from operation of any commercial motor vehicle upon receipt of a conviction for an offense of failure to appear or pay, and such disqualification shall remain in effect until the director receives notice that the person has complied with the requirement to appear or pay.

18. The disqualification period must be in addition to any other previous periods of disqualification in the manner prescribed in 49 CFR 383, or as amended by the Secretary, except when the major or serious violations are a result of the same incident.

19. Any person is disqualified from driving a commercial motor vehicle for life for being convicted of using a commercial motor vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined in U.S.C. 7102(11). A disqualification for life under this subsection shall not be reduced.

407.526. 1. A person commits the crime of odometer fraud in the third degree if, with the intent to defraud, he operates a motor vehicle less than **[**ten**]** **twenty** years old on any street or highway knowing that the odometer of the motor vehicle is disconnected or not functioning.

2. Odometer fraud in the third degree is a class C misdemeanor.

407.536. 1. Any person transferring ownership of a motor vehicle previously titled in this or any other state shall do so by assignment of title and shall place the mileage registered on the odometer at the time of transfer above the signature of the transferor. The signature of the transferor below the mileage shall constitute an odometer mileage statement. The transferee shall sign such odometer mileage statement before an application for certificate of ownership may be made. If the true mileage is known to the transferor to be different from the number of miles shown on the odometer or the true mileage is unknown, a statement from the transferor shall accompany the assignment of title which shall contain all facts known by the transferor concerning the true mileage of the motor vehicle. That statement shall become a part of the permanent record of the motor vehicle with the Missouri department of revenue. The department of revenue shall place on all new titles issued after September 28, 1977, a box titled "mileage at the time of transfer".

2. Any person transferring the ownership of a motor vehicle previously untitled in this or any other state to another person shall give an odometer mileage statement to the transferee. The statement shall include above the signature of the transferor and transferee the cumulative mileage registered on the odometer at the time of transfer. If the true mileage is known to the transferor to be different from the number of miles shown on the odometer or the true mileage is unknown, a statement from the transferor shall accompany the assignment of title which shall contain all facts known by the transferor concerning the true mileage of the motor vehicle. That statement shall become a

permanent part of the records of the Missouri department of revenue.

3. If, upon receiving an application for registration or for a certificate of ownership of a motor vehicle, the director of revenue has credible evidence that the odometer reading provided by a transferor is materially inaccurate, he may place an asterisk on the face of the title document issued by the Missouri department of revenue, provided that the process required thereby does not interfere with his obligations under subdivision (2) of subsection 3 of section 301.190. The asterisk shall refer to a statement on the face and at the bottom of the title document which shall read as follows: "This may not be the true and accurate mileage of this motor vehicle. Consult the documents on file with the Missouri department of revenue for an explanation of the inaccuracy.". Nothing in this section shall prevent any person from challenging the determination by the director of revenue in the circuit courts of the state of Missouri. The burden of proof shall be on the director of the department of revenue in all such proceedings.

4. The mileage disclosed by the odometer mileage statement for a new or used motor vehicle as described in subsections 1 and 2 of this section shall be placed by the transferor on any title or document evidencing ownership. Additional statements shall be placed on the title document as follows:

(1) If the transferor states that to the best of his knowledge the mileage disclosed is the actual mileage of the motor vehicle, an asterisk shall follow the mileage on the face of the title or document of ownership issued by the Missouri department of revenue. The asterisk shall

reference to a statement on the face and bottom of the title document which shall read as follows: "Actual Mileage";

(2) Where the transferor has submitted an explanation why this mileage is incorrect, an asterisk shall follow the mileage on the face of the title or document of ownership issued by the Missouri department of revenue. The asterisk shall reference to a statement on the face and at the bottom of the title document which shall read as follows: "This is not the true and accurate mileage of this motor vehicle. Consult the documents on file with the Missouri department of revenue for an explanation of the inaccuracy.". Further wording shall be included as follows:

(a) If the transferor states that the odometer reflects the amount of mileage in excess of the designed mechanical odometer limit, the above statement on the face of the title document shall be followed by the words: "Mileage exceeds the mechanical limits";

(b) If the transferor states that the odometer reading differs from the mileage and that the difference is greater than that caused by odometer calibration error and the odometer reading does not reflect the actual mileage and should not be relied upon, the above statement on the face of the title document shall be preceded by the words: "Warning Odometer Discrepancy".

5. The department of revenue shall notify all motor vehicle ownership transferees of the civil and criminal penalties involving odometer fraud.

6. Any person defacing or obscuring or otherwise falsifying any odometer reading on any document required by this section shall be guilty of a class E felony.

7. The granting or creation of a security interest or lien shall not be considered a change of ownership for the

purpose of this section, and the grantor of such lien or security interest shall not be required to make an odometer mileage statement. The release of a lien by a mortgage holder shall not be considered a change of ownership of the motor vehicle for the purposes of this section. The mortgage holder or lienholder shall not be required to make an odometer disclosure statement or state the current odometer setting at the time of the release of the lien where there is no change of ownership.

8. For the purposes of the mileage disclosure requirements of this section, if a certificate of ownership is held by a lienholder, if the transferor makes application for a duplicate certificate of ownership, or as otherwise provided in the federal Motor Vehicle Information and Cost Savings Act and related federal regulations, the transferor may execute a written power of attorney authorizing a transfer of ownership. The person granted such power of attorney shall restate exactly on the assignment of title the actual mileage disclosed at the time of transfer. The power of attorney shall accompany the certificate of ownership and the original power of attorney and a copy of the certificate of ownership shall be returned to the issuing state in the manner prescribed by the director of revenue, unless otherwise provided by federal law, rule or regulation. The department of revenue may prescribe a secure document for use in executing a written power of attorney**, and may allow electronic signatures on such document**. The department shall collect a fee for each form issued, not to exceed the cost of procuring the form.

407.556. 1. A violation of the provisions of sections 407.511 to 407.556 by any person licensed or registered as a manufacturer or dealer pursuant to the provisions of chapter

301, shall be considered a violation of the provisions of that chapter, subjecting that person to revocation or suspension of any license issued pursuant to the provisions of that chapter.

2. The provisions of sections 407.511 to 407.556 do not apply to the following motor vehicles:

(1) Any motor vehicle having a gross vehicle weight rating of more than sixteen thousand pounds;

(2) Any motor vehicle that is **[**ten**]** **twenty** years old or older;

(3) Any motor vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications; or

(4) Any new vehicle prior to its first transfer for purposes other than resale.

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MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-R002)

Subject

Referendum petition from Jeremy Cady regarding Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 262. (Received June 1, 2021)

Date

June 21, 2021

Description

Voters will approve or reject this statutory change.

The referendum is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Missouri Lottery,** the **State Tax Commission,** the **Missouri Veterans Commission,** the **Missouri Ethics Commission,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City**

Board of Election Commissioners, the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Children's Trust Fund of Missouri,** the **Missouri Joint Municipal Electric Utility Commission,** the **State Auditor's office,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Missouri Gaming Commission,** the **Municipal League of Metro St. Louis, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no significant fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated the total estimated net effect on all state funds will be $14,458 for fiscal year 2022, $28,917 for fiscal year 2023, and $72,292 for fiscal year 2026.

			1st year	2nd year	3rd year	4th year	5th year
# of vehicles	**average miles per year/vehicle**	**average miles/gallon**	**$0.025**	**$0.050**	**$0.075**	**$0.100**	**$0.125**
784	10789	14.63	$14,458.38	$28,916.75	$43,375.13	$57,833.50	$72,291.88

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this referendum petition proposing to amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 262.

Officials from the **Department of Revenue** indicated this will impact general revenue.

Small businesses that purchase motor fuel will be impacted.

Section 142.803 Motor Fuel

Their department notes this proposal would keep the current motor fuel tax of seventeen cents per gallon and add a bonus motor fuel tax that phases in over the next seven years. This new phased in tax increases each year on July 1st. The phased in tax is scheduled to be from October 1, 2021, to June 30, 2022, two and a half cents per gallon; from July 1, 2022, to June 30, 2023, five cents per gallon; from July 1, 2023, to June 30, 2024, seven and a half cents per gallon; from July 1, 2024, to June 30, 2025, ten cents per gallon; from July 1, 2025, to June 30, 2026, twelve and a half cents per gallon. Starting July 1, 2025 this tax would continue at the additional twelve and a half cents into the future.

Currently the seventeen cents per gallon paid on motor fuel is collected at the gas pump and is required to be paid by all. However, those who do not use their vehicle on the highway or state road systems can apply to receive a refund of the tax they paid. Examples of those vehicles that can receive a refund include boats and farm equipment.

Using the amount of taxes collected in 2020, they were able to estimate the number of motor fuel gallons sold. Using that data they were able to calculate the difference between the current seventeen cents rate and the new bonus tax rate each calendar year.

The following information was used to calculate the fiscal impact:

Net Amount	FY20 - Taxes	2020 Current Tax	2020 # Gallons sold
gallons of gas taxed	$509,718,525.05	0.17	2,998,344,265
gallons of diesel taxed	$189,002,719.82	0.17	1,111,780,705
gas/diesel	$698,721,244.87		4,110,124,970

Their department will use the fiscal year (FY) 2020 numbers for calculating this fiscal note. Their department notes these numbers may include economic disruptions caused by the COVID pandemic and stay at home orders that may be one-time occurrences. However, their department is unable to predict whether those disruptions will have any long-term impact on the number of gallons of motor fuel sold in the future, so their department assumes any future fiscal impact potentially could exceed the impact calculated for this fiscal note.

Fiscal Year	Gas Current Law	Bonus Gas Tax Proposed	Diesel Current Law	Bonus Diesel Tax Proposed
2022	$0.17	$0.195	$0.17	$0.195
2023	$0.17	$0.220	$0.17	$0.220
2024	$0.17	$0.245	$0.17	$0.245
2025	$0.17	$0.270	$0.17	$0.270
2026	$0.17	$0.295	$0.17	$0.295

Motor Fuel tax money is distributed as follows:

All money goes into Motor Fuel Tax Fund (0673) then is distributed as below:	
Cities 15%	0.15
Counties 12%	0.12
State Road Fund (0320)	0.73
	100%

Their department notes that this proposal would change the tax rate at the start of each fiscal year. They were able to calculate the estimated increase expected to the State Road Fund and to Cities and Counties as follows:

Fiscal Year Collections

Table 1: 2020 Motor Fuel Tax Collections				
Fiscal Year	State Road Fund	County	Cities	Total
2022	$56,257,336	$9,247,781	$11,559,726	$77,064,843
2023	$150,019,561	$24,660,750	$30,825,937	$205,506,248
2024	$225,029,342	$36,991,125	$46,238,906	$308,259,373
2025	$300,039,123	$49,321,500	$61,651,875	$411,012,497
2026	$375,048,903	$61,651,875	$77,064,843	$513,765,621

This proposal requires that the bonus tax be collected from everyone at the gas pump. However, it states that this bonus motor fuel tax can be refunded to any person who uses their motor vehicle on the highways. The intent of this legislation appears to create a refund policy for those that do not want to pay additional motor fuel tax that is similar to the policy for those whose vehicles are not used on the highways.

It should be noted that the motor fuel tax refund would impact the State Road Fund, Cities and Counties as well. Refunds are paid out of the money collected. This proposal states that the refund claim has to be filed after July 1st but before September 30th of the following fiscal year.

Their department has no data to indicate how many customers will actually apply for the refund. This proposal does however, limit the refund to those whose vehicles are less than 26,000 lbs. Their department notes of the 6,242,364 registered vehicles in Missouri, 5,023,899 would be eligible for this refund. Which include:

Light duty vehicles	4,316,805
Motorcycles	125,466
Van/truck	477,073
Bus	104,555

Their department notes that the State of South Carolina has a similar refund program in which 15% of their citizens applied. For fiscal note purposes their department will show the range of refunds as the 15% to 100% of those eligible Missourians. This would result in an impact of:

Estimated Refunds per Fiscal Year at 15% and 100%

Fiscal Year	15%	100%
2022	$0	$0
2023	($11,708,809)	($78,058,726)
2024	($23,417,618)	($156,117,452)
2025	($35,126,427)	($234,176,179)
2026	($46,835,236)	($312,234,905)
2027+	($58,544,045)	($390,293,631)

Summary Impact

Fiscal Year	Motor Fuel Collected	Potential Refunds Issued
2022	$77,064,843	$0
2023	$205,506,248	($11,708,809 - $78,058,726)
2024	$308,259,373	($23,417,618 - $156,117,452)
2025	$411,012,497	($35,126,427 - $234,176,179)
2026	$513,765,621	($46,835,236 - $312,234,905)
2027	$513,765,621	($58,544,045 - $390,293,631)

It should be noted that the refunds amounts are distributed out of the same funds in the same proportion as the motor fuel tax is distributed.

Fiscal Year	State 15%	State 100%	Cities 15%	Cities 100%	Counties 15%	Counties 100%
2022	$0	$0	$0	$0	$0	$0
2023	($8,547,431)	($56,982,870)	($1,756,321)	($11,708,809)	($1,405,057)	($9,367,047)
2024	($17,094,861)	($113,965,740)	($3,512,643)	($23,417,618)	($2,810,114)	($18,734,094)
2025	($25,642,292)	($170,948,611)	($5,268,964)	($35,126,427)	($4,215,171)	($28,101,141)
2026	($34,189,722)	($227,931,481)	($7,025,285)	($46,835,236)	($5,620,228)	($37,468,189)
2027	($42,737,153)	($284,914,351)	($8,781,607)	($58,544,045)	($7,025,285)	($46,835,236)

Administrative Impact

Their department assumes all administrative costs will come out of general revenue.

Creating a second motor fuel tax and changing the amount annually will result in additional form and website changes that are estimated to cost $2,000 annually.

Currently, to claim a refund for motor fuel, a refund claim form is submitted with all receipts to their department. A staff person reviews the claim form and all the receipts attached to verify the amount of the refund. An Associate Customer Service Representative can process approximately 4,000 refunds annually.

This proposal grants their department permission to implement an electronic filing system for the receipt of the refunds. Their department assumes this new electronic system could cost up to $500,000 based on similar programs currently in use by their department.

This proposal also states that their department must process all of the refund requests in 45 days. Failure to process the returns in the 45 day period will result in their department paying interest on the claims. The amount of interest owed annually is unknown and could exceed $10,000.

Due to the expected volume of refunds, the limited filing periods for turning in your claim form, the short turn around time for processing the refunds and the fact the electronic filing is not mandatory their department assumes it will need 15-20 Associate Customer Service Representatives in Processing and 3-5 Additional Auditors. These FTE numbers could be substantially higher if money is not appropriated for the electronic filing system.

Section 142.824 Refund of Motor Fuel Taxes

This proposal will allow their department to create an electronic filing system for the refunding of motor fuel taxes for vehicles not driven on the highway. Additionally, this proposal shortens the time period their department has to process these returns before interest is due. The impact from these provisions are included in the response to Section 142.822.

Section 142.869 Alternative Fuel Decal Fees

This provision increases the alternative fuel decal fees that are owed by vehicles that do not use motor fuel (gas, diesel) starting January 1, 2022. These alternative fuel decal fees are used for electric, LP, natural gas and hybrid vehicles plus plug-in vehicles. Under current law, the alternative fuel decal fee is owed in January of each year. Their department pro-rates the fee based on when a person receives the decal. This proposal states that the fees will increase 20% a year for five years for most vehicles and 10% for five years for vehicles in excess of 36,000 pounds.

Therefore the fee structure will be:

		New Fee Amounts				
Decal Type	Current Fee	First Year	Second Year	Third Year	Fourth Year	Fifth year
Buses (Local, Comm, Transit) & NonFarm - 18,000 to 36,000	$150.00	$180.00	$210.00	$240.00	$270.00	$300.00
Farm- 18,000 to 36,000	$100.00	$120.00	$140.00	$160.00	$180.00	$200.00

Farm - Greater than 36,000	$250.00	$275.00	$300.00	$325.00	$350.00	$375.00
Greater than 36,000	$1,000.00	$1,100.00	$1,200.00	$1,300.00	$1,400.00	$1,500.00
Passenger, School Bus, 18,000 or less	$75.00	$90.00	$105.00	$120.00	$135.00	$150.00
Passenger, School Bus, 18,000 or more	$37.50	$45.00	$52.50	$60.00	$67.50	$75.00

Using the 2019 decal numbers issued their department, they are able to estimate the fiscal impact from this provision.

Decal Type	Decals
Buses (Local, Comm, Transit) & NonFarm - 18,0000 to 36,000	133
Farm- 18,000 to 36,000	18
Farm - Greater than 36,000	3
Greater than 36,000	177
Passenger, School Bus, 18,000 or less	3,944
Passenger, School Bus, 18,000 or more	105
Totals	4,380

		Increased Revenue Per Year				
Decal Type	Decals	First Year	Second Year	Third Year	Fourth Year	Fifth year
Buses (Local, Comm, Transit) & NonFarm - 18,0000 to 36,000	133	$3,990.00	$7,980.00	$11,970.00	$15,960.00	$19,950.00
Farm- 18,000 to 36,000	18	$360.00	$720.00	$1,080.00	$1,440.00	$1,800.00
Farm - Greater than 36,000	3	$75.00	$150.00	$225.00	$300.00	$375.00
Greater than 36,000	177	$17,700.00	$35,400.00	$53,100.00	$70,800.00	$88,500.00
Passenger, School Bus, 18,000 or less	3,944	$59,160.00	$118,320.00	$177,480.00	$236,640.00	$295,800.00
Passenger, School Bus, 18,000 or more	105	$787.50	$1,575.00	$2,362.50	$3,150.00	$3,937.50
Totals	4,380	**$82,072.50**	**$164,145.00**	**$246,217.50**	**$328,290.00**	**$410,362.50**

It should be noted that the alternative fuel decal fee is distributed to the State Road Fund, Cities and Counties just as motor fuel is proportionally distributed.

Fiscal Year	State Road Fund	Cities (15%)	Counties (12%)
2022	$59,913	$12,311	$9,849
2023	$119,826	$24,622	$19,697
2024	$179,739	$36,933	$29,546
2025	$239,652	$49,244	$39,395
2026	$299,565	$61,554	$49,244

Section 142.1000 Electric Vehicle Task Force

This provision creates the Electric Vehicle Task Force to analyze transportation funding and make recommendations on further actions the state can make to fund transportation with the anticipation of more widespread adoption of electric vehicles. The Director of the Department of Revenue or their designee shall serve as chair of the task force. Their department shall also provide research, clerical, technical and any other services the task force needs to accomplish its goals as well as pay expenses of the members of the task force.

Their department is required to submit a report to the General Assembly by December 31, 2022 (FY 2023). Their department assumes an impact of $10,000 for paying of expenses for this task force. For the simplicity of the fiscal note, they will show the expenses of the task force all in FY 2022.

Sections 301.192, 301.280, 302.755, 407.526, 407.536, 407.556 Motor Vehicles Odometer Language

§301.192- Expands the requirement for a statement certifying the odometer reading of a motor vehicle from less than ten years of age to less than twenty years of age.

§301.280- Outlines an odometer reading is not required when reporting the sale of a motor vehicle of twenty years of age or older.

§407.536- Proposed language allows the acceptance of an electronic signature on the Department's secure power of attorney document.

§407.556- Expands the provisions of sections 407.511 to 407.556 do not apply to any motor vehicle that is twenty years old or older.

MVB - Administrative Impact

To incorporate the necessary changes various department systems and procedures will need modifications to apply the changes.

FY2022 – Motor Vehicle Bureau (MVB)

Associate Research/Data Analyst	62 hrs. @ $18.50 per hr.	= $1,147
Research/Data Analyst	16 hrs. @ $23.09 per hr.	= $ 369
Administrative Manager	8 hrs. @ $21.57 per hr.	= $ 173
Total		$1,689

FY 2022 – Strategy and Communications Bureau

Research/Data Assistant	4 hrs. @ $15.49 per hr.	= $ 62
Associate Research/Data Analyst	13 hrs. @ $18.50 per hr.	= $ 241
Total		$ 303

MVB OA-ITSD Impact

Fiscal Note			ITSD-MV - DOR		
Bill Number	22-R002				
Will a new system be required?			Yes		No
Indicate fiscal year when fully implemented			FY 2022		
ESTIMATED NET EFFECT ON STATE FUNDS					
Fund Affected			**FY 2022**	**FY 2023**	**FY 2024**
General Revenue			15,288	-	-
Other			-	-	-
Federal Funds			-	-	-
Total			15,288	-	-
It is assumed that every new IT project/system will be bid out because all ITSD resources are at full capacity.					
Bill Section(s)	0				
			FY 2022	FY 2023	FY 2024
TRIPS	Rate *1	Hours	$	$	$
IT Consultants	95	18.36	1,744	-	-
Section Total Expenditures:			1,744	-	-
Section Funding:	General Revenue		1,744	-	-
	Federal		-	-	-
	Other		-	-	-
	Total		1,744	-	-

Bill Section(s)	0				
			FY 2022	FY 2023	FY 2024
DVHF	Rate *1	Hours	$	$	$

IT Consultants	95	71.28	6,772	-	-
Section Total Expenditures:			6,772	-	-
Section Funding:	General Revenue		6,772	-	-
	Federal		-	-	-
	Other		-	-	-
	Total		6,772	-	-

Bill Section(s)	0				
			FY 2022	FY 2023	FY 2024
Title Briefs	Rate *1	Hours	$	$	$
IT Consultants	95	35.64	3,386	-	-
Section Total Expenditures:			3,386	-	-
Section Funding:	General Revenue		3,386	-	-
	Federal		-	-	-
	Other		-	-	-
	Total		3,386	-	-

Bill Section(s)	0				
			FY 2022	FY 2023	FY 2024
Odometer File	Rate *1	Hours	$	$	$
IT Consultants	95	35.64	3,386	-	-
Section Total Expenditures:			3,386	-	-
Section Funding:	General Revenue		3,386	-	-
	Federal		-	-	-
	Other		-	-	-
	Total		3,386	-	-

§302.755.19

States any person is disqualified from driving a commercial motor vehicle for life if convicted of using a commercial motor vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined in 22 U.S.C. Section 7102 (11). A disqualification for life under this subsection shall not be reduced.

DLB - Administrative Impact

This new disqualification is mandated per Federal Motor Carrier Safety Regulation changes defined in 49 CFR §383.51 with a mandatory compliance date of September 23, 2022. Their department has no available data that would help them determine the potential volume of drivers who may be convicted under this new provision, but they assume it will be minimal enough to not require additional FTE. If the increase is more significant than anticipated, additional FTE may be requested through the appropriations process.

To implement the proposed legislation, their department will be required to:

- Complete programming and user acceptance testing of MODL (driver license computer system) to develop a new action type and MODL code for commercial driver's license (cdl) disqualification for trafficking of persons,
- Update driver history and CDL disqualification evaluation routines;
- Test programs for inbound and outbound conviction processing and driver history eligibility evaluations in MODL and MAI (driver history computer system);
- Update interactive applications for automated responses to customers through telephone system (current vendor Genesys) or online chat function (DORA),
- Work with the Office of State Courts Administrator (OSCA) to ensure courts are informed of the new lifetime disqualification;
- Update the Department website,
- Update form 5231 Commercial Operators and the Law Brochure and form 899 Missouri Driver Record Traffic Violation Descriptions and Points Assessed; and
- Update the Missouri Commercial Driver License Manual.

FY 2022 – Driver License Bureau

Research/Data Analyst	160 hrs. @ $23.82 per hr.	= $3,811
Research/Data Assistant	160 hrs. @ $15.98 per hr.	= $2,557
Total		= $6,368

FY 2022 – Personnel Services Bureau

Associate Research/Data Analyst	60 hrs. @ $19.08 per hr.	= $1,145
Research/Data Assistant	20 hrs. @ $15.98 per hr.	= $ 320
Total		= $1,465
Total Costs		= $7,833

DLB - OA ITSD Impact

ITSD DL- DOR							
Bill Number	22-R002	FN #	1706S.01I				
Bill Section(s)							
Application Name:	MODL				**FY2022**	**FY2023**	**FY2024**
IT Consultants		**On-going Yes/No**	**Rate**	**Hours**	**$**	**$**	**$**
Requirements Gathering			95	16	1,520	-	-
Analysis			95	16	1,520	-	-
Design			95	16	1,520	-	-
Development			95	160	15,200	-	-
Test			95	48	4,560	-	-
Implementation			95	6	570	-	-
Project Management			95	20.96	1,991	-	-
On-going support			95		-	-	-
Section Total IT Consultants:			95	282.96	26,881	-	-
Other Costs:			**Cost Per**	**Number**	**$**	**$**	**$**
			-	-	-	-	-
Section Total Other Costs:					-	-	-
Section Total Expenditures:					26,881	-	-
General Revenue					26,881	-	-
Federal					-	-	-
Other					-	-	-
Section Funding:					26,881	-	-
Should be $0					-	-	-

2. Does this proposal duplicate any other program?
No
8a. Provide narrative on the IT impact this bill would have (program expansion or modifications, new application, consolidation, etc.)
Program changes, new action type, new code
8b. Explanation of assumptions and methodology used in arriving at the impact; Please reference and/or attach any/all supporting documentation to email.
Per DLB - requires a new action type for cdl disqualification due to human trafficking, a new MODL code, and needs to be added to the disqualification routine

Officials from the **Department of Public Safety - Office of the Director** indicated Referendum petition 22-R002 has the potential to affect the Missouri State Highway Patrol in the Department of Public Safety. It will not impact the Department of Public Safety Directors Office.

The total estimated net effect on all state funds will be ($38,260) for fiscal year 2022, ($102,027) for fiscal year 2023, and ($153,039) for fiscal year 2024.

This proposal would affect all state agencies that purchase road fuel.

This proposal would increase revenue to the Highway Fund from the collection of motor fuel tax. There is the assumption that the Missouri Department of Transportation would be responsible for determining eligibility and obtaining refunds as allowed by section 142.822.

Section 142.803.3

The following increase in fuel costs to the Patrol are based on the Patrol's fiscal year (FY)20 fuel usage of 2,040,517 gallons of fuel.

Year one (9 months only) - ($0.025 per gallon increase) - $38,259.69 additional expenditure (80% paid with Highway Funds, 10% each paid with Gaming and General Revenue funds).

Each additional year would add an additional $51,012.93 to the Patrol's expenditures, culminating in a total of $242,311.41 after the final year of increases. (80% paid with Highway Funds, 10% each paid with Gaming and General Revenue funds).

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's Office** indicated this proposal relating to transportation and the fuel tax should not fiscally impact their office

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated they assume this referendum petition would have a negative fiscal impact of less than $250,000 per year due to the increased cost of motor fuel.

Officials from the **Department of Transportation** indicated their department defers to the Department of Revenue for a fiscal impact on this referendum petition

Officials from the **Office of Administration** indicated this referendum would go to a public vote in November 2022. Budget and Planning (B&P) notes that, if signed by the Governor, SS#2 SCS SB 262 would begin October 1, 2021.

Sections 142.803 and 142.822 – Motor Fuel Tax and Rebate

Section 142.803 would create an additional motor fuel tax by $0.025 per year starting October 2021, until the additional fuel tax reaches $0.125. Table 1 shows the additional tax rate by year.

Table 1: Motor Fuel

Date (FY)	Additional Tax	Total Motor Fuel Tax
10/21 - 06/22 (FY22)	$0.025	$0.195
07/22 - 06/23 (FY23)	$0.050	$0.220
07/23 - 06/24 (FY24)	$0.075	$0.245
07/24 - 06/25 (FY25)	$0.100	$0.270
07/25 and on (FY26+)	$0.125	$0.295

Based on fiscal year (FY)20 motor fuel tax collections of $698.7M, B&P estimates that 4,110.1M gallons of motor fuel were taxed. B&P notes that it is unknown how much FY20 collections were impacted by COVID-19 and what future permanent changes to fuel consumption will occur as a result of the pandemic. Using this estimate, B&P calculates that each $0.025 increase in the motor fuel tax will generate $102.7 million in revenue. Table 2 shows the estimated revenue impact for each fuel type by calendar year.

Table 2: Motor Fuel Tax Increase Revenue by Fiscal Year

Fuel Type	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Gasoline	$56,218,955	$149,917,213	$224,875,820	$299,834,427	$374,793,033	$374,793,033
Diesel	$20,845,888	$55,589,035	$83,383,553	$111,178,070	$138,972,588	$138,972,588
Total	$77,064,843	$205,506,248	$308,259,373	$411,012,497	$513,765,621	$513,765,621

Section 142.822 would allow taxpayers to seek a refund for the additional tax created under Subsection 142.803.3. The refund shall be granted for motor vehicles driving on highways.

B&P notes that per Article IV, Section 30(a) and Section 142.815, RSMo. other types of vehicles that use motor fuel (such as boats) are already exempt from motor fuel taxes. Refund claims may be made electronically and the claims shall not be transferred or assigned. Refund claims must be submitted between July 1st and September 30th of the year following the fiscal year from when the motor fuel was purchased. Subsection 142.822.5 requires the Department of Revenue (DOR) to pay interest on any refunds not made within 45 days. Subsection 142.822.6 states that refund claims can only be made for vehicles up to 26,000 pounds. B&P is unable to determine the number of taxpayers who will apply for the fuel tax refund. B&P notes that while South Carolina has a similar provision, there are limits on the amount of refunds that may be claimed that may be artificially lowering actual refund claims received. B&P notes that no such limits exist in this proposal. Therefore, B&P will reflect the impact from this section as 15% to 100% of qualified motor fuel tax purchase.

B&P estimates that this proposal may increase fuel tax revenues by $77,064,843 in FY22. B&P notes that fiscal year 2022 refunds would not be issued until FY23. Therefore, B&P estimates that motor fuel tax revenues may increase from $127,447,522 to $193,797,440 in FY23, depending on the number of refund claims. Once fully implemented in FY27, this proposal may increase motor fuel tax revenues by $123,471,990 to $455,221,577 annually. Table 3 shows the estimated revenue impact for both the additional motor fuel tax and refund claims.

Table 3: Motor Fuel Tax Increase Revenue by Fiscal Year

Fuel Type	FY 2022	FY 2023		FY 2024	
		High Refunds	Low Refunds	High Refunds	Low Refunds
Motor Fuel Tax Revenue	$77,064,843	$205,506,248	$205,506,248	$308,259,373	$308,259,373
Tax Exemption Refund	$0	($78,058,726)	($11,708,809)	($156,117,452)	($23,417,618)
Total Revenue	$77,064,843	$127,447,522	$193,797,440	$152,141,920	$284,841,755

Table 3: Motor Fuel Tax Increase Revenue by Fiscal Year (cont.)

Fuel Type	FY 2025		FY 2026		FY 2027	
	High Refunds	Low Refunds	High Refunds	Low Refunds	High Refunds	Low Refunds
Motor Fuel Tax Revenue	$411,012,497	$411,012,497	$513,765,621	$513,765,621	$513,765,621	$513,765,621
Tax Exemption Refund	($234,176,179)	($35,126,427)	($312,234,905)	($46,835,236)	($390,293,631)	($58,544,045)
Total Revenue	$176,836,318	$375,886,070	$201,530,716	$466,930,385	$123,471,990	$455,221,577

Based on these calculations, B&P estimates that this proposal will generate $56,257,336 for the State Road Fund and $20,807,508 in local fuel funds in FY22. In FY 23, this proposal may generate $93,036,691 to $141,472,131 for the State Road Fund and $34,410,831 to $52,325,309 in local fuel funds, depending on the number of refund claims received. Once fully implemented in FY27, this proposal may increase the State Road Fund by $90,134,553 to $332,311,751 and local fuel funds by $33,337,437 to $122,909,826 annually.

Table 4: Total Revenue Generated from Proposed Tax Increases

State Fund	FY 2022	FY 2023		FY 2024	
		Low	High	Low	High
State Road Fund	$56,257,336	$93,036,691	$141,472,131	$111,063,602	$207,934,481
Local Funds					
CART	$9,247,781	$15,293,703	$23,255,693	$18,257,030	$34,181,011
Other	$11,559,726	$19,117,128	$29,069,616	$22,821,288	$42,726,263
Total Local	$20,807,508	$34,410,831	$52,325,309	$41,078,318	$76,907,274

Table 4: Total Revenue Generated from Proposed Tax Increases (cont.)

State Fund	FY 2025		FY 2026		FY 2027	
	Low	High	Low	High	Low	High
State Road Fund	$129,090,512	$274,396,831	$147,117,423	$340,859,181	$90,134,553	$332,311,751
Local Funds						
CART	$21,220,358	$45,106,328	$24,183,686	$56,031,646	$14,816,639	$54,626,589
Other	$26,525,448	$56,382,911	$30,229,607	$70,039,558	$18,520,799	$68,283,236
Total Local	$47,745,806	$101,489,239	$54,413,293	$126,071,204	$33,337,437	$122,909,826

Section 142.824 – Non-Road Fuel Tax Refunds

This provision would allow fuel tax refunds, for vehicles that are not driven on the road, to be filed electronically. This provision would also change the number of days from 30 to 45 before interest begins accruing on the fuel tax refund claims. This section will not impact TSR (total state revenue) or the calculation under Article X, Section 18(e) of the Missouri Constitution. B&P defers to DOR for any additional specific impacts from this provision.

Section 142.869 – Alternative Fuel Decal Fees

This provision would increase the alternative fuel decal fees by 20% over the fee in place on 8/28/2021 per year for five years, starting January 1, 2022. B&P notes that alternative fuel decal fees are paid annually in January of each calendar year. Table 5 shows the changes to the decal fees by vehicle type and year.

Table 5: Decal Fees

Decal Type	Current Law	Annual Decal Fee Increase	2022	2023	2024	2025	2026
Buses	$150.00	$30.00	$180.00	$210.00	$240.00	$270.00	$300.00
Farm- 18,000 to 36,000	$100.00	$20.00	$120.00	$140.00	$160.00	$180.00	$200.00
Farm - Greater than 36,000	$250.00	$25.00	$275.00	$300.00	$325.00	$350.00	$375.00
Greater than 36,000	$1,000.00	$100.00	$1,100.00	$1,200.00	$1,300.00	$1,400.00	$1,500.00
Passenger, School Bus	$75.00	$15.00	$90.00	$105.00	$120.00	$135.00	$150.00
Passenger, School Bus, Plug-in Hybrid	$37.50	$7.50	$45.00	$52.50	$60.00	$67.50	$75.00

Based on information provided by DOR, B&P estimates that this provision will increase revenues from alternative fuel decal fees by $82,073 in FY22. Once fully implemented in FY26, this provision will generate $328,290 in additional revenue. Table 6 shows the estimated revenue per vehicle and year.

Table 6: Increased Decal Fee Revenue by Year

Decal Type	# Decals	2022 (FY22)	2023 (FY23)	2024 (FY24)	2025 (FY25)	2026 (FY26)
Buses	133	$3,990	$7,980	$11,970	$15,960	$19,950
Farm- 18,000 to 36,000	18	$360	$720	$1,080	$1,440	$1,800
Farm - Greater than 36,000	3	$75	$150	$225	$300	$375
Greater than 36,000	177	$17,700	$35,400	$53,100	$70,800	$88,500
Passenger, School Bus	3944	$59,160	$118,320	$177,480	$236,640	$295,800
Passenger, School Bus, Plug-in Hybrid	105	$788	$1,575	$2,363	$3,150	$3,938
Total		$82,073	$164,145	$246,218	$328,290	$410,363

Therefore, B&P estimates that this provision will increase revenues to the State Road Fund by $59,913 and local revenues by $22,160 in FY22. Once fully implemented in FY26, this provision will increase revenues to the State Road Fund by $299,565 and local revenues by $110,798 annually. Table 7 shows the revenue impacts by fund by year.

Table 7: Revenue by Fund

State Fund	FY22	FY23	FY24	FY25	FY26	FY27
State Road Fund	$59,913	$119,826	$179,739	$239,652	$299,565	$299,565
Local Funds						
CART	$9,849	$19,697	$29,546	$39,395	$49,244	$49,244
Other	$12,311	$24,622	$36,933	$49,244	$61,554	$61,554
Total Local	$22,160	$44,319	$66,479	$88,638	$110,798	$110,798

Section 142.1000 – Electric Vehicle Task Force

Section 142.1000 would create the "Electric Vehicle Task Force". The tax force shall provide a report to the General Assembly and Governor no later than December 31, 2022 with recommendations related to electric vehicle use. The tax force will expire on December 31, 2022. This provision will not impact TSR or the calculation under Article X, Section 18(e) of the Missouri Constitution.

Motor Fuel Tax Summary

B&P estimates that this proposal will increase revenues to the State Road Fund by $56,317,248 and local revenues by $20,829,667 in FY22. Once fully implemented in FY27, this proposal will increase revenues to the State Road Fund by $90,434,117 to $332,611,316 and local funds by $33,448,235 to $123,020,624 annually depending on the number of refund claims. Table 8 shows the impacts by fund and year.

Table 8: Total Revenue Generated from Proposed Tax Increases

State Fund	FY 2022	FY 2023		FY 2024	
		Low	High	Low	High
State Road Fund					
Fuel Tax	$56,257,336	$93,036,691	$141,472,131	$111,063,602	$207,934,481
Decal Fee	$59,913	$119,826	$119,826	$179,739	$179,739
Total	**$56,317,248**	**$93,156,517**	**$141,591,957**	**$111,243,341**	**$208,114,220**
Local Funds					
CART					
Fuel Tax	$9,247,781	$15,293,703	$23,255,693	$18,257,030	$34,181,011
Decal Fee	$9,849	$19,697	$19,697	$29,546	$29,546
Total CART	$9,257,630	$15,313,400	$23,275,390	$18,286,577	$34,210,557
Other					
Fuel Tax	$11,559,726	$19,117,128	$29,069,616	$22,821,288	$42,726,263
Decal Fee	$12,311	$24,622	$24,622	$36,933	$36,933
Total Other	$11,572,037	$19,141,750	$29,094,238	$22,858,221	$42,763,196
Total Local	$20,829,667	$34,455,150	$52,369,628	$41,144,797	$76,973,753

Table 8: Total Revenue Generated from Proposed Tax Increases

State Fund	FY 2025		FY 2026		FY 2027	
	Low	High	Low	High	Low	High
State Road Fund						
Fuel Tax	$129,090,512	$274,396,831	$147,117,423	$340,859,181	$90,134,553	$332,311,751
Decal Fee	$239,652	$239,652	$299,565	$299,565	$299,565	$299,565
	$129,330,164	**$274,636,483**	**$147,416,988**	**$341,158,746**	**$90,434,117**	**$332,611,316**
Local Funds						
CART						
Fuel Tax	$21,220,358	$45,106,328	$24,183,686	$56,031,646	$14,816,639	$54,626,589
Decal Fee	$39,395	$39,395	$49,244	$49,244	$49,244	$49,244
Total CART	$21,259,753	$45,145,723	$24,232,929	$56,080,890	$14,865,882	$54,675,833
Other						
Fuel Tax	$26,525,448	$56,382,911	$30,229,607	$70,039,558	$18,520,799	$68,283,236
Decal Fee	$49,244	$49,244	$61,554	$61,554	$61,554	$61,554
Total Other	$26,574,691	$56,432,154	$30,291,162	$70,101,112	$18,582,353	$68,344,791
Total Local	$47,834,444	$101,577,877	$54,524,091	$126,182,002	$33,448,235	$123,020,624

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate a negative fiscal impact to reimburse 2 Senators for travel to Electric Vehicle Task Force meetings. See details in the analysis below. In summary it will cost approximately $225 per meeting.

Fiscal Analysis for Fiscal Note

Fiscal Note #: 2022-R001 2022-R002
Bill #: SS2 SCS SB 262

SECTION
142.1000 Creates the Electric Vehicle Task Force
2 Senators, 2 Representatives, 9 lay people

FISCAL IMPACT IS TO THE SENATE CONTINGENT APPROPRIATION

EXPENSE	TOTAL AVERAGE MILES*	RATE PER MILE**	NUMBER OF APPOINTEES	EST TOTAL PER MEETING
Mileage - Senators	261	0.43	2	224.46
FISCAL IMPACT PER MEETING:				**224.46**

Assumptions: Meetings are held in Jefferson City during the interim

Notes: Draft bill allows for actual and necessary expenses
Draft bill does specify compensation is at the discretion of the Dept of Revenue
Senators will request compensation for travel time and the senate will pay it
Cost analysis for this note is for 2 senators only

* average of the total roundtrip miles for current sitting senators, 34
** current rate as set by the Office of Administration, updated 3/1/2021

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated Referendum petition 22-R002 would have no effect on their office.

Officials from the **State Treasurer's office** indicated they purchase minimal amounts of fuel each year for their state vehicles. The expected impact of this tax, should it become law, would be less than $100 annually to their office.

Officials from **Clay County** indicated they conservatively estimate the following savings/increases in revenue:

- ~$60,000 per 2.5 cent increase in motor vehicle fuel tax or ~$300,000 after all five increases.
- ~$1,000 per year for the 20% and 10% fee increases referenced in 142.869.2, total of ~$5,000 for the five year period.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this referendum petition proposing to amend Senate Substitute No. 2 for Senate Committee Substitute for Senate Bill No. 262. The estimated revenue for counties as a result of the implementation of SB 262 is based on a statewide analysis that is not broken down county-by-county. Therefore, there is no historical data available to make any kind of analysis for any estimated cost or savings.

Officials from the **City of Kansas City** indicated this would result in a positive fiscal impact for Kansas City if approved by the voters.

Officials from **Metropolitan Community College** indicated there will be a fiscal impact to their college, at this time it is unknown what that impact would be. The unknown impact would relate to the 17 cent gas tax. Their college has police cars, facility vehicles, and maintenance equipment that run on gas.

Officials from **University of Missouri** indicated they do not expect this petition to have a significant financial impact on their institution. If a department utilizes the University issued Fleet Card, the gas tax is removed at the time of purchase. In the case of the University owned gas station, there is already a process in place to request the tax refund at the end of each year.

Officials from the **Missouri Lottery** indicated no fiscal impact to their agency.

Officials from the **State Tax Commission** indicated no fiscal impact on their agency.

Officials from the **Missouri Veterans Commission** indicated this initiative petition will have no fiscal impact upon their agency.

Officials from the **Missouri Ethics Commission** indicated they have no fiscal impact in relation to the proposed petition.

Officials from the **St. Louis County Board of Elections** indicated this will have no impact on their Board.

Officials from the **Board of Election Commissioners City of St. Louis** indicated this petition will have no impact on their organization.

Officials from the **Kansas City Board of Election Commissioners** indicated assuming this question will be on the November 2021 ballot. The cost to conduct an election in the Kansas City portion of Jackson County is $625,000. The costs are divided between all the entities that participate in that election, based on their percentage of voter registration. The State's cost could range from $300,000 to $625,000.

Officials from the **Platte County Board of Elections** indicated there would be no fiscal impact on their Board.

Officials from the **Children's Trust Fund** indicated there would be no impact for the Children's Trust Fund on this measure.

Officials from the **State Auditor's office** indicated no fiscal impact on their office.

Officials from the **University of Central Missouri** indicated they have determined no fiscal impact for this petition.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, St. Louis Community College,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Missouri Joint Municipal Electric Utility Commission,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Missouri Gaming Commission,** the **Municipal League of Metro St. Louis, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Fiscal Note Summary

State governmental entities estimate initial costs of at least $500,000, ongoing costs of at least $500,000 annually, and increased revenues of $90 million to $330 million annually by 2027. Local governments are estimated to have unknown costs and increased revenues of $30 million to $120 million annually by 2027.

RECEIVED
MAY 17 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 17, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Jeremy Cady regarding a proposed referendum petition for Senate Substitute 2 for Senate Committee Substitute for Senate Bill 262 (2022-R001)

Dear Auditor Galloway:

Enclosed please find a referendum petition sample sheet for Senate Substitute 2 for Senate Committee Substitute for Senate Bill 262 filed by Jeremy Cady on May 14, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____
Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any referendum petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

PETITION FOR REFERENDUM

To the Honorable John (Jay) Ashcroft, Secretary of State for the State of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the Senate Bill No. 262 entitled An Act to repeal sections 142.803, 142.824, 142.869, 301.192, 301.280, 302.755, 407.526, 407.536, and 407.556, RSMO, and to enact in lieu thereof eleven new sections relating to transportation, with penalty provisions and an emergency clause for certain sections, passed by the 101st general assembly of the state of Missouri, at the first regular session of the 101st general assembly, shall be referred to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, unless the general assembly shall designate another date, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title)

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____. I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ___ do not ___(check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ _____ _____
Signature of Affiant Printed Name of Affiant Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 202_.

_____ _____
Signature of Notary Address of Notary

Notary Public (Seal) My commission expires _____

FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

SENATE SUBSTITUTE NO. 2 FOR

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 262

101ST GENERAL ASSEMBLY
2021

1143S.11T

AN ACT

To repeal sections 142.803, 142.824, 142.869, 301.192, 301.280, 302.755, 407.526, 407.536, and 407.556, RSMo, and to enact in lieu thereof eleven new sections relating to transportation, with penalty provisions and an emergency clause for certain sections.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 142.803, 142.824, 142.869, 301.192, 301.280, 302.755, 407.526, 407.536, and 407.556, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 142.803, 142.822, 142.824, 142.869, 142.1000, 301.192, 301.280, 302.755, 407.526, 407.536, and 407.556, to read as follows:

142.803. 1. A tax is levied and imposed on all motor fuel used or consumed in this state as follows:

(1) Motor fuel, seventeen cents per gallon;

(2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly sold or measured by the gallon, is used in motor vehicles on the highways of this state, the director is authorized to assess and collect a tax upon such alternative fuel measured by the nearest power potential equivalent to that of one gallon of regular grade gasoline.

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

The determination by the director of the power potential equivalent of such alternative fuel shall be prima facie correct;

(3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per gallon as levied and imposed by section 155.080 to be collected as required under this chapter;

(4) Compressed natural gas fuel, five cents per gasoline gallon equivalent until December 31, 2019, eleven cents per gasoline gallon equivalent from January 1, 2020, until December 31, 2024, and then seventeen cents per gasoline gallon equivalent thereafter. The gasoline gallon equivalent and method of sale for compressed natural gas shall be as published by the National Institute of Standards and Technology in Handbooks 44 and 130, and supplements thereto or revisions thereof. In the absence of such standard or agreement, the gasoline gallon equivalent and method of sale for compressed natural gas shall be equal to five and sixty-six-hundredths pounds of compressed natural gas. All applicable provisions contained in this chapter governing administration, collections, and enforcement of the state motor fuel tax shall apply to the tax imposed on compressed natural gas, including but not limited to licensing, reporting, penalties, and interest;

(5) Liquefied natural gas fuel, five cents per diesel gallon equivalent until December 31, 2019, eleven cents per diesel gallon equivalent from January 1, 2020, until December 31, 2024, and then seventeen cents per diesel gallon equivalent thereafter. The diesel gallon equivalent and method of sale for liquefied natural gas shall be as published by the National Institute of Standards and Technology in Handbooks 44 and 130, and supplements thereto

or revisions thereof. In the absence of such standard or agreement, the diesel gallon equivalent and method of sale for liquefied natural gas shall be equal to six and six-hundredths pounds of liquefied natural gas. All applicable provisions contained in this chapter governing administration, collections, and enforcement of the state motor fuel tax shall apply to the tax imposed on liquefied natural gas, including but not limited to licensing, reporting, penalties, and interest;

(6) Propane gas fuel, five cents per gallon until December 31, 2019, eleven cents per gallon from January 1, 2020, until December 31, 2024, and then seventeen cents per gallon thereafter. All applicable provisions contained in this chapter governing administration, collection, and enforcement of the state motor fuel tax shall apply to the tax imposed on propane gas including, but not limited to, licensing, reporting, penalties, and interest;

(7) If a natural gas, compressed natural gas, liquefied natural gas, electric, or propane connection is used for fueling motor vehicles and for another use, such as heating, the tax imposed by this section shall apply to the entire amount of natural gas, compressed natural gas, liquefied natural gas, electricity, or propane used unless an approved separate metering and accounting system is in place.

2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be precollected as described in this chapter, for the facility and convenience of the consumer. The levy and assessment on other persons as specified in this chapter shall be as agents of this state for the precollection of the tax.

3. In addition to any tax collected under subdivision (1) of subsection 1 of this section, the following tax is levied and imposed on all motor fuel used or consumed in this state, subject to the exemption on tax liability set forth in section 142.822: from October 1, 2021, to June 30, 2022, two and a half cents per gallon; from July 1, 2022, to June 30, 2023, five cents per gallon; from July 1, 2023, to June 30, 2024, seven and a half cents per gallon; from July 1, 2024, to June 30, 2025, ten cents per gallon; and on and after July 1, 2025, twelve and a half cents per gallon.

142.822. 1. Motor fuel used for purposes of propelling motor vehicles on highways shall be exempt from the fuel tax collected under subsection 3 of section 142.803, and an exemption and refund may be claimed by the taxpayer if the tax has been paid and no refund has been previously issued, provided that the taxpayer applies for the exemption and refund as specified in this section. The exemption and refund shall be issued on a fiscal year basis to each person who pays the fuel tax collected under subsection 3 of section 142.803 and who claims an exemption and refund in accordance with this section, and shall apply so that the fuel taxpayer has no liability for the tax collected in that fiscal year under subsection 3 of section 142.803.

2. To claim an exemption and refund in accordance with this section, a person shall present to the director a statement containing a written verification that the claim is made under penalty of perjury and that states the total fuel tax paid in the applicable fiscal year for each vehicle for which the exemption and refund is claimed. The claim shall not be transferred or assigned, and shall be filed on or after July first, but not later than September thirtieth,

following the fiscal year for which the exemption and refund is claimed. The claim statement may be submitted electronically, and shall at a minimum include the following information:

(1) Vehicle identification number of the motor vehicle into which the motor fuel was delivered;

(2) Date of sale;

(3) Name and address of purchaser;

(4) Name and address of seller;

(5) Number of gallons purchased; and

(6) Number of gallons purchased and charged Missouri fuel tax, as a separate item.

3. Every person shall maintain and keep records supporting the claim statement filed with the department of revenue for a period of three years to substantiate all claims for exemption and refund of the motor fuel tax, together with invoices, original sales receipts marked paid by the seller, bills of lading, and other pertinent records and paper as may be required by the director for reasonable administration of this chapter.

4. The director may make any investigation necessary before issuing an exemption and refund under this section, and may investigate an exemption and refund under this section after it has been issued and within the time frame for making adjustments to the tax pursuant to this chapter.

5. If an exemption and refund is not issued within forty-five days of an accurate and complete filing, as required by this chapter, the director shall pay interest at the rate provided in section 32.065 accruing after the expiration of the forty-five-day period until the date the exemption and refund is issued.

6. The exemption and refund specified in this section shall be available only with regard to motor fuel delivered into a motor vehicle with a gross weight, as defined in section 301.010, of twenty-six thousand pounds or less.

7. The director shall promulgate rules as necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

142.824. 1. To claim a refund in accordance with section 142.815, a person shall present to the director a statement containing a written verification that the claim is made under penalties of perjury and lists the total amount of motor fuel purchased and used for exempt purposes. The claim shall not be transferred or assigned and shall be filed not more than three years after the date the motor fuel was imported, removed or sold if the claimant is a supplier, importer, exporter or distributor. If the claim is filed by the ultimate consumer, a consumer must file the claim within one year of the date of purchase or April fifteenth following the year of purchase, whichever is later. The claim statement **may be submitted electronically, and** shall be supported by **[**the original sales slip, invoice

or other] documentation as approved by the director and shall include the following information:

(1) Date of sale;

(2) Name and address of purchaser;

(3) Name and address of seller;

(4) Number of gallons purchased and base price per gallon;

(5) Number of gallons purchased and charged Missouri fuel tax, as a separate item; **and**

(6) Number of gallons purchased and charged sales tax, if applicable, as a separate item[;

(7) Marked paid by the seller].

2. If the original sales slip or invoice is lost or destroyed, a statement to that effect shall accompany the claim for refund, and the claim statement shall also set forth the serial number of the invoice. If the director finds the claim is otherwise regular, the director may allow such claim for refund.

3. The director may make any investigation necessary before refunding the motor fuel tax to a person and may investigate a refund after the refund has been issued and within the time frame for making adjustments to the tax pursuant to this chapter.

4. In any case where a refund would be payable to a supplier pursuant to this chapter, the supplier may claim a credit in lieu of such refund for a period not to exceed three years.

5. Every person shall maintain and keep for a period of three years records to substantiate all claims for refund of the motor fuel tax, together with invoices, **original sales slips marked paid by the seller**, bills of lading, and

other pertinent records and paper as may be required by the director for reasonable administration of this chapter.

6. Motor fuel tax that has been paid more than once with respect to the same gallon of motor fuel shall be refunded by the director to the person who last paid the tax after the subsequent taxable event upon submitting proof satisfactory to the director.

7. Motor fuel tax that has otherwise been erroneously paid by a person shall be refunded by the director upon proof shown satisfactory to the director.

8. [If a refund is not issued within ninety days of an accurate and complete filing, as required by this chapter, the director shall pay interest at the rate set out in section 32.065 accruing after the expiration of the ninety-day period until the date the refund is issued. After December 31, 2000,] If a refund is not issued within [thirty] **forty-five** days of an accurate and complete filing, as required by this chapter, the director shall pay interest at the rate provided in section 32.065 accruing after the expiration of the [thirty-day] **forty-five-day** period until the date the refund is issued.

9. The director shall promulgate rules as necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of

rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid and void.

142.869. 1. The tax imposed by this chapter shall not apply to passenger motor vehicles, buses as defined in section 301.010, or commercial motor vehicles registered in this state which are powered by alternative fuel, and for which a valid decal has been acquired as provided in this section, provided that sales made to alternative fueled vehicles powered by propane, compressed natural gas, or liquefied natural gas that do not meet the requirements of subsection 3 of this section shall be taxed exclusively pursuant to subdivisions (4) to (7) of subsection 1 of section 142.803, respectively. The owners or operators of such motor vehicles, except plug-in electric hybrids, shall, in lieu of the tax imposed by section 142.803, pay an annual alternative fuel decal fee as follows: seventy-five dollars on each passenger motor vehicle, school bus as defined in section 301.010, and commercial motor vehicle with a licensed gross vehicle weight of eighteen thousand pounds or less; one hundred dollars on each motor vehicle with a licensed gross weight in excess of eighteen thousand pounds but not more than thirty-six thousand pounds used for farm or farming transportation operations and registered with a license plate designated with the letter "F"; one hundred fifty dollars on each motor vehicle with a licensed gross vehicle weight in excess of eighteen thousand pounds but less than or equal to thirty-six thousand pounds, and each passenger-carrying motor vehicle subject to the registration fee provided in sections 301.059, 301.061 and 301.063; two hundred fifty dollars on each motor vehicle with a licensed gross weight in excess of thirty-six thousand pounds used for farm or farming transportation operations and registered

with a license plate designated with the letter "F"; and one thousand dollars on each motor vehicle with a licensed gross vehicle weight in excess of thirty-six thousand pounds. Owners or operators of plug-in electric hybrids shall pay one-half of the stated annual alternative fuel decal fee. Notwithstanding provisions of this section to the contrary, motor vehicles licensed as historic under section 301.131 which are powered by alternative fuel shall be exempt from both the tax imposed by this chapter and the alternative fuel decal requirements of this section. For the purposes of this section, a plug-in electric hybrid shall be any hybrid vehicle made by a manufacturer with a model year of 2018 or newer, that has not been modified from the original manufacturer specifications, with an internal combustion engine and batteries that can be recharged by connecting a plug to an electric power source.

2. **Beginning January 1, 2022, the fees in subsection 1 of this section shall be increased by twenty percent of the fee in effect on August 28, 2021, per year for a period of five years, except that the fee for motor vehicles with a licensed gross vehicle weight in excess of thirty-six thousand pounds shall be increased by ten percent of the fee in effect on August 28, 2021, per year for a period of five years.**

3. Except interstate fuel users and vehicles licensed under a reciprocity agreement as defined in section 142.617, the tax imposed by section 142.803 shall not apply to motor vehicles registered outside this state which are powered by alternative fuel other than propane, compressed natural gas, and liquefied natural gas, and for which a valid temporary alternative fuel decal has been acquired as provided in this section. The owners or operators of such motor vehicles

shall, in lieu of the tax imposed by section 142.803, pay a temporary alternative fuel decal fee of eight dollars on each such vehicle. Such decals shall be valid for a period of fifteen days from the date of issuance and shall be attached to the lower right-hand corner of the front windshield on the motor vehicle for which it was issued. Such decal and fee shall not be transferable. All proceeds from such decal fees shall be deposited as specified in section 142.345. Alternative fuel dealers selling such decals in accordance with rules and regulations prescribed by the director shall be allowed to retain fifty cents for each decal fee timely remitted to the director.

[3.] **4.** Owners or operators of passenger motor vehicles, buses as defined in section 301.010, or commercial motor vehicles registered in this state which are powered by compressed natural gas or liquefied natural gas who have installed a compressed natural gas fueling station or liquefied natural gas fueling station used solely to fuel the motor vehicles they own or operate as of December 31, 2015, may continue to apply for and use the alternative fuel decal in lieu of paying the tax imposed under subdivisions (4) and (5) of subsection 1 of section 142.803. Owners or operators of compressed natural gas fueling stations or liquefied natural gas fueling stations whose vehicles bear an alternative fuel decal shall be prohibited from selling or providing compressed natural gas or liquefied natural gas to any motor vehicle they do not own or operate. Owners or operators of motor vehicles powered by compressed natural gas or liquefied natural gas bearing an alternative fuel decal after January 1, 2016, that decline to renew the alternative fuel decals for such motor vehicles shall no longer be eligible to apply for and use alternative fuel

decals under this subsection. Any compressed natural gas or liquefied natural gas obtained at any fueling station not owned by the owner or operator of the motor vehicle bearing an alternative fuel decal shall be subject to the tax under subdivisions (4) and (5) of subsection 1 of section 142.803.

[4.] **5.** An owner or operator of a motor vehicle powered by propane may continue to apply for and use the alternative fuel decal in lieu of paying the tax imposed under subdivision (6) of subsection 1 of section 142.803. If the appropriate motor fuel tax under subdivision (6) of subsection 1 of section 142.803 is collected at the time of fueling, an operator of a propane fueling station that uses quick-connect fueling nozzles may sell propane as a motor fuel without verifying the application of a valid Missouri alternative fuel decal. If an owner or operator of a motor vehicle powered by propane that bears an alternative fuel decal refuels at an unattended propane refueling station, such owner or operator shall not be eligible for a refund of the motor fuel tax paid at such refueling.

[5.] **6.** The director shall annually, on or before January thirty-first of each year, collect or cause to be collected from owners or operators of the motor vehicles specified in subsection 1 of this section the annual decal fee. Applications for such decals shall be supplied by the department of revenue. In the case of a motor vehicle which is not in operation by January thirty-first of any year, a decal may be purchased for a fractional period of such year, and the amount of the decal fee shall be reduced by one-twelfth for each complete month which shall have elapsed since the beginning of such year. This subsection shall not apply to an owner or operator of a motor vehicle powered by

propane who fuels such vehicle exclusively at unattended fueling stations that collect the motor fuel tax.

[6.] 7. Upon the payment of the fee required by subsection 1 of this section, the director shall issue a decal, which shall be valid for the current calendar year and shall be attached to the lower right-hand corner of the front windshield on the motor vehicle for which it was issued.

[7.] 8. The decal fee paid pursuant to subsection 1 of this section for each motor vehicle shall be transferable upon a change of ownership of the motor vehicle and, if the LP gas or natural gas equipment is removed from a motor vehicle upon a change of ownership and is reinstalled in another motor vehicle, upon such reinstallation. Such transfers shall be accomplished in accordance with rules and regulations promulgated by the director.

[8.] 9. It shall be unlawful for any person to operate a motor vehicle required to have an alternative fuel decal upon the highways of this state without a valid decal unless the motor vehicle is exclusively fueled at propane, compressed natural gas, or liquefied natural gas fueling stations that collect the motor fuel tax.

[9.] 10. No person shall cause to be put, or put, any alternative fuel into the fuel supply receptacle or battery of a motor vehicle required to have an alternative fuel decal unless the motor vehicle either has a valid decal attached to it or the appropriate motor fuel tax is collected at the time of such fueling.

[10.] 11. Any person violating any provision of this section is guilty of an infraction and shall, upon conviction thereof, be fined five hundred dollars.

[11.] **12.** Motor vehicles displaying a valid alternative fuel decal are exempt from the licensing and reporting requirements of this chapter.

142.1000. 1. There is hereby created within the department of revenue the "Electric Vehicle Task Force" to consist of the following members:

(1) The director of the department of revenue, or his or her designee, who shall serve as chair;

(2) The chairman of the public service commission, or his or her designee, who shall serve as vice chair;

(3) The director of the department of transportation, or his or her designee;

(4) One member of the senate committee with jurisdiction over transportation matters, to be appointed by the president pro tempore of the senate;

(5) One member of the house of representatives committee with jurisdiction over transportation matters, to be appointed by the speaker of the house of representatives;

(6) One member of the senate committee with jurisdiction over transportation matters, to be appointed by the minority floor leader of the senate;

(7) One member of the house of representatives committee with jurisdiction over transportation matters, to be appointed by the minority floor leader of the house of representatives;

(8) One representative of the trucking or heavy vehicle industry, to be appointed by the president pro tempore of the senate;

(9) One representative of electric vehicle manufacturers or dealers, to be appointed by the speaker of the house of representatives;

(10) One representative of conventional motor vehicle manufacturers or dealers, to be appointed by the president pro tempore of the senate;

(11) One representative of the petroleum industry or convenience stores, to be appointed by the speaker of the house of representatives;

(12) One representative of electric vehicle charging station manufacturers or operators, to be appointed by the president pro tempore of the senate; and

(13) One representative of electric utilities, to be appointed by the speaker of the house of representatives.

2. The task force shall analyze the following in the context of transportation funding, and make recommendations as to any actions the state should take to fund transportation infrastructure in anticipation of more widespread adoption of electric vehicles:

(1) Removal or mitigation of barriers to electric vehicle charging, including strategies, such as time-of-use rates, to reduce operating costs for current and future electric vehicle owners without shifting costs to electric ratepayers who do not own or operate electric vehicles;

(2) Strategies for managing the impact of electric vehicles on, and services provided for electric vehicles by, the electricity transmission and distribution system;

(3) Electric system benefits and costs of electric vehicle charging, electric utility planning for electric vehicle charging, and rate design for electric vehicle charging;

(4) The appropriate role of electric utilities with regard to the deployment and operation of electric vehicle charging systems;

(5) How and on what terms, including quantity, pricing, and time of day, charging stations owned or operated by entities other than electric utilities will obtain electricity to provide to electric vehicles;

(6) What safety standards should apply to the charging of electric vehicles;

(7) The recommended scope of the jurisdiction of the public service commission, the department of revenue, and other state agencies over charging stations owned or operated by entities other than electric utilities;

(8) Whether charging stations owned or operated by entities other than electric utilities will be free to set the rates or prices at which they provide electricity to electric vehicles, and any other issues relevant to the appropriate oversight of the rates and prices charged by such stations, including transparency to the consumer of those rates and prices; and

(9) The recommended billing and complaint procedures for charging stations;

(10) Options to address how electric vehicle users pay toward the cost of maintaining the state's transportation infrastructure, including methods to assess the impact of electric vehicles on that infrastructure and how to calculate a charge based on that impact, the potential assessment of a charge to electric vehicles as a rate per kilowatt hour delivered to an electric vehicle, varying such per-kilowatt-hour charge by size and type of electric vehicle, and phasing in such per-kilowatt-hour charge;

(11) The accuracy of electric metering and submetering technology for charging electric vehicles;

(12) Strategies to encourage electric vehicle usage without shifting costs to electric ratepayers who do not own or charge electric vehicles; and

(13) Any other issues the task force considers relevant.

3. The department of revenue shall provide such research, clerical, technical, and other services as the task force may require in the performance of its duties.

4. The task force may hold public meetings at which it may invite testimony from experts, or it may solicit information from any party it deems may have information relevant to its duties under this section.

5. No later than December 31, 2022, the task force shall provide to the general assembly and the governor a written report detailing its findings and recommendations, including identifying any recommendations that may require enabling legislation.

6. Members shall serve on the task force without compensation, but may, at the discretion of the director of the department of revenue, be reimbursed for actual and necessary expenses incurred in the performance of their official duties as members of the task force.

7. The task force shall expire on December 31, 2022.

301.192. 1. In addition to any other requirements of section 301.190, when application is made for a certificate of ownership for a motor vehicle or trailer seven years old or older and the value of vehicle does not exceed three thousand dollars, for which no record of any prior application for a certificate of ownership exists in the records of the director of revenue or for which the records of the director of revenue reflect incomplete or conflicting documentation of ownership, the director of revenue may

issue a certificate of ownership, not less than thirty days after receiving the completed application, provided it is accompanied by:

(1) An affidavit explaining how the motor vehicle or trailer was acquired and the reasons a valid certificate of ownership cannot be furnished;

(2) Presentation of all evidence of ownership in the applicant's possession;

(3) Title verification from a state in which the vehicle was previously titled or registered if known, provided the vehicle was so previously titled or registered;

(4) A notarized lien release from any lienholder of record;

(5) A vehicle examination certificate issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The vehicle examination shall include a verification of the vehicle's identification number and a determination that the vehicle has not been reported stolen in Missouri or any other state. The fee for the vehicle examination certificate shall be twenty-five dollars and shall be collected by the director of revenue at the time of the request for the application;

(6) A statement certifying the odometer reading of the motor vehicle if less than [ten] **twenty** years of age; and

(7) A surety bond or a suitable financial security instrument in a form prescribed by the director of revenue and executed by the applicant and a person authorized to conduct surety business in this state. The bond shall be an amount equal to two times the value of the vehicle as determined by the Kelly Blue Book, NADA Used Car Guide or two appraisals from a licensed motor vehicle dealer. The

bond shall be for a minimum of one hundred dollars and conditioned to indemnify any prior owner or lienholder and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage including reasonable attorneys fees, by reason of the issuance of the certificate of ownership of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of three years, unless the department has been notified of the pendency of an action to recover on the bond.

2. Upon satisfaction with the genuineness of the application and supporting documents, the director of revenue shall issue a new certificate of ownership. The certificate of ownership shall appropriately be designated with the words "BONDED VEHICLE".

301.280. 1. Every motor vehicle dealer and boat dealer shall make a monthly report to the department of revenue, on blanks to be prescribed by the department of revenue, giving the following information: date of the sale of each motor vehicle, boat, trailer and all-terrain vehicle sold; the name and address of the buyer; the name of the manufacturer; year of manufacture; model of vehicle; vehicle identification number; style of vehicle; odometer setting; and it shall also state whether the motor vehicle, boat, trailer or all-terrain vehicle is new or secondhand. Each monthly sales report filed by a motor vehicle dealer who collects sales tax under subsection 10 of section 144.070

shall also include the amount of state and local sales tax collected for each motor vehicle sold if sales tax was due. The odometer reading is not required when reporting the sale of any motor vehicle that is [ten] **twenty** years old or older, any motor vehicle having a gross vehicle weight rating of more than sixteen thousand pounds, new vehicles that are transferred on a manufacturer's statement of origin between one franchised motor vehicle dealer and another, or boats, all-terrain vehicles or trailers. The sale of all temporary permits shall be recorded in the appropriate space on the dealer's monthly sales report, unless the sale of the temporary permit is already recorded by electronic means as determined by the department. The monthly sales report shall include a statement of motor vehicles or trailers sold during the month under subsection 5 of section 301.210. The monthly sales report shall be completed in full and signed by an officer, partner, or owner of the dealership, and actually received by the department of revenue on or before the fifteenth day of the month succeeding the month for which the sales are being reported. If no sales occur in any given month, a report shall be submitted for that month indicating no sales. Any vehicle dealer who fails to file a monthly report or who fails to file a timely report shall be subject to disciplinary action as prescribed in section 301.562 or a penalty assessed by the director not to exceed three hundred dollars per violation. Every motor vehicle and boat dealer shall retain copies of the monthly sales report as part of the records to be maintained at the dealership location and shall hold them available for inspection by appropriate law enforcement officials and officials of the department of revenue. Every vehicle dealer selling twenty or more vehicles a month shall file

the monthly sales report with the department in an electronic format. Any dealer filing a monthly sales report in an electronic format shall be exempt from filing the notice of transfer required by section 301.196. For any dealer not filing electronically, the notice of transfer required by section 301.196 shall be submitted with the monthly sales report as prescribed by the director.

2. Every dealer and every person operating a public garage shall keep a correct record of the vehicle identification number, odometer setting, manufacturer's name of all motor vehicles or trailers accepted by him for the purpose of sale, rental, storage, repair or repainting, together with the name and address of the person delivering such motor vehicle or trailer to the dealer or public garage keeper, and the person delivering such motor vehicle or trailer shall record such information in a file kept by the dealer or garage keeper. The record shall be kept for five years and be open for inspection by law enforcement officials, members or authorized or designated employees of the Missouri highway patrol, and persons, agencies and officials designated by the director of revenue.

3. Every dealer and every person operating a public garage in which a motor vehicle remains unclaimed for a period of fifteen days shall, within five days after the expiration of that period, report the motor vehicle as unclaimed to the director of revenue. Such report shall be on a form prescribed by the director of revenue. A motor vehicle left by its owner whose name and address are known to the dealer or his employee or person operating a public garage or his employee is not considered unclaimed. Any dealer or person operating a public garage who fails to report a motor vehicle as unclaimed as herein required

forfeits all claims and liens for its garaging, parking or storing.

4. The director of revenue shall maintain appropriately indexed cumulative records of unclaimed vehicles reported to the director. Such records shall be kept open to public inspection during reasonable business hours.

5. The alteration or obliteration of the vehicle identification number on any such motor vehicle shall be prima facie evidence of larceny, and the dealer or person operating such public garage shall upon the discovery of such obliteration or alteration immediately notify the highway patrol, sheriff, marshal, constable or chief of police of the municipality where the dealer or garage keeper has his place of business, and shall hold such motor vehicle or trailer for a period of forty-eight hours for the purpose of an investigation by the officer so notified.

6. Any person who knowingly makes a false statement or omission of a material fact in a monthly sales report to the department of revenue, as described in subsection 1 of this section, shall be deemed guilty of a class A misdemeanor.

302.755. 1. A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:

(1) Driving a motor vehicle under the influence of alcohol or a controlled substance, or of an alcohol-related enforcement contact as defined in subsection 3 of section 302.525;

(2) Driving a commercial motor vehicle which causes a fatality through the negligent operation of the commercial motor vehicle, including but not limited to the offenses of

vehicular manslaughter, homicide by motor vehicle, and negligent homicide;

(3) Driving a commercial motor vehicle while revoked pursuant to section 302.727;

(4) Leaving the scene of an accident involving a commercial or noncommercial motor vehicle operated by the person;

(5) Using a commercial or noncommercial motor vehicle in the commission of any felony, as defined in section 302.700, except a felony as provided in subsection 4 of this section.

2. If any of the violations described in subsection 1 of this section occur while transporting a hazardous material the person is disqualified for a period of not less than three years.

3. Any person is disqualified from operating a commercial motor vehicle for life if convicted of two or more violations of any of the offenses specified in subsection 1 of this section, or any combination of those offenses, arising from two or more separate incidents. The director may issue rules and regulations, in accordance with guidelines established by the Secretary, under which a disqualification for life under this section may be reduced to a period of not less than ten years.

4. Any person is disqualified from driving a commercial motor vehicle for life who uses a commercial or noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

5. Any person is disqualified from operating a commercial motor vehicle for a period of not less than sixty

days if convicted of two serious traffic violations or one hundred twenty days if convicted of three serious traffic violations, arising from separate incidents occurring within a three-year period.

6. Any person found to be operating a commercial motor vehicle while having any measurable alcohol concentration shall immediately be issued a continuous twenty-four-hour out-of-service order by a law enforcement officer in this state.

7. Any person who is convicted of operating a commercial motor vehicle beginning at the time of issuance of the out-of-service order until its expiration is guilty of a class A misdemeanor.

8. Any person convicted for the first time of driving while out of service shall be disqualified from driving a commercial motor vehicle in the manner prescribed in 49 CFR 383, or as amended by the Secretary.

9. Any person convicted of driving while out of service on a second occasion during any ten-year period, involving separate incidents, shall be disqualified in the manner prescribed in 49 CFR 383, or as amended by the Secretary.

10. Any person convicted of driving while out of service on a third or subsequent occasion during any ten-year period, involving separate incidents, shall be disqualified for a period of three years.

11. Any person convicted of a first violation of an out-of-service order while transporting hazardous materials or while operating a motor vehicle designed to transport sixteen or more passengers, including the driver, is disqualified for a period of one hundred eighty days.

12. Any person convicted of any subsequent violation of an out-of-service order in a separate incident within ten years after a previous violation, while transporting hazardous materials or while operating a motor vehicle designed to transport fifteen passengers, including the driver, is disqualified for a period of three years.

13. Any person convicted of any other offense as specified by regulations promulgated by the Secretary of Transportation shall be disqualified in accordance with such regulations.

14. After suspending, revoking, cancelling, or disqualifying a driver, the director shall update records to reflect such action and notify a nonresident's licensing authority and the commercial driver's license information system within ten days in the manner prescribed in 49 CFR 384, or as amended by the Secretary.

15. Any person disqualified from operating a commercial motor vehicle pursuant to subsection 1, 2, 3 or 4 of this section shall have such commercial driver's license cancelled, and upon conclusion of the period of disqualification shall take the written and driving tests and meet all other requirements of sections 302.700 to 302.780. Such disqualification and cancellation shall not be withdrawn by the director until such person reapplies for a commercial driver's license in this or any other state after meeting all requirements of sections 302.700 to 302.780.

16. The director shall disqualify a driver upon receipt of notification that the Secretary has determined a driver to be an imminent hazard pursuant to 49 CFR 383.52. Due process of a disqualification determined by the Secretary pursuant to this section shall be held in

accordance with regulations promulgated by the Secretary. The period of disqualification determined by the Secretary pursuant to this section shall be served concurrently to any other period of disqualification which may be imposed by the director pursuant to this section. Both disqualifications shall appear on the driving record of the driver.

17. The director shall disqualify a commercial license holder or operator of a commercial motor vehicle from operation of any commercial motor vehicle upon receipt of a conviction for an offense of failure to appear or pay, and such disqualification shall remain in effect until the director receives notice that the person has complied with the requirement to appear or pay.

18. The disqualification period must be in addition to any other previous periods of disqualification in the manner prescribed in 49 CFR 383, or as amended by the Secretary, except when the major or serious violations are a result of the same incident.

19. Any person is disqualified from driving a commercial motor vehicle for life for being convicted of using a commercial motor vehicle in the commission of a felony involving an act or practice of severe forms of trafficking in persons, as defined in U.S.C. 7102(11). A disqualification for life under this subsection shall not be reduced.

407.526. 1. A person commits the crime of odometer fraud in the third degree if, with the intent to defraud, he operates a motor vehicle less than [ten] **twenty** years old on any street or highway knowing that the odometer of the motor vehicle is disconnected or not functioning.

2. Odometer fraud in the third degree is a class C misdemeanor.

407.536. 1. Any person transferring ownership of a motor vehicle previously titled in this or any other state shall do so by assignment of title and shall place the mileage registered on the odometer at the time of transfer above the signature of the transferor. The signature of the transferor below the mileage shall constitute an odometer mileage statement. The transferee shall sign such odometer mileage statement before an application for certificate of ownership may be made. If the true mileage is known to the transferor to be different from the number of miles shown on the odometer or the true mileage is unknown, a statement from the transferor shall accompany the assignment of title which shall contain all facts known by the transferor concerning the true mileage of the motor vehicle. That statement shall become a part of the permanent record of the motor vehicle with the Missouri department of revenue. The department of revenue shall place on all new titles issued after September 28, 1977, a box titled "mileage at the time of transfer".

2. Any person transferring the ownership of a motor vehicle previously untitled in this or any other state to another person shall give an odometer mileage statement to the transferee. The statement shall include above the signature of the transferor and transferee the cumulative mileage registered on the odometer at the time of transfer. If the true mileage is known to the transferor to be different from the number of miles shown on the odometer or the true mileage is unknown, a statement from the transferor shall accompany the assignment of title which shall contain all facts known by the transferor concerning the true mileage of the motor vehicle. That statement shall become a

permanent part of the records of the Missouri department of revenue.

3. If, upon receiving an application for registration or for a certificate of ownership of a motor vehicle, the director of revenue has credible evidence that the odometer reading provided by a transferor is materially inaccurate, he may place an asterisk on the face of the title document issued by the Missouri department of revenue, provided that the process required thereby does not interfere with his obligations under subdivision (2) of subsection 3 of section 301.190. The asterisk shall refer to a statement on the face and at the bottom of the title document which shall read as follows: "This may not be the true and accurate mileage of this motor vehicle. Consult the documents on file with the Missouri department of revenue for an explanation of the inaccuracy.". Nothing in this section shall prevent any person from challenging the determination by the director of revenue in the circuit courts of the state of Missouri. The burden of proof shall be on the director of the department of revenue in all such proceedings.

4. The mileage disclosed by the odometer mileage statement for a new or used motor vehicle as described in subsections 1 and 2 of this section shall be placed by the transferor on any title or document evidencing ownership. Additional statements shall be placed on the title document as follows:

(1) If the transferor states that to the best of his knowledge the mileage disclosed is the actual mileage of the motor vehicle, an asterisk shall follow the mileage on the face of the title or document of ownership issued by the Missouri department of revenue. The asterisk shall

reference to a statement on the face and bottom of the title document which shall read as follows: "Actual Mileage";

(2) Where the transferor has submitted an explanation why this mileage is incorrect, an asterisk shall follow the mileage on the face of the title or document of ownership issued by the Missouri department of revenue. The asterisk shall reference to a statement on the face and at the bottom of the title document which shall read as follows: "This is not the true and accurate mileage of this motor vehicle. Consult the documents on file with the Missouri department of revenue for an explanation of the inaccuracy.". Further wording shall be included as follows:

(a) If the transferor states that the odometer reflects the amount of mileage in excess of the designed mechanical odometer limit, the above statement on the face of the title document shall be followed by the words: "Mileage exceeds the mechanical limits";

(b) If the transferor states that the odometer reading differs from the mileage and that the difference is greater than that caused by odometer calibration error and the odometer reading does not reflect the actual mileage and should not be relied upon, the above statement on the face of the title document shall be preceded by the words: "Warning Odometer Discrepancy".

5. The department of revenue shall notify all motor vehicle ownership transferees of the civil and criminal penalties involving odometer fraud.

6. Any person defacing or obscuring or otherwise falsifying any odometer reading on any document required by this section shall be guilty of a class E felony.

7. The granting or creation of a security interest or lien shall not be considered a change of ownership for the

purpose of this section, and the grantor of such lien or security interest shall not be required to make an odometer mileage statement. The release of a lien by a mortgage holder shall not be considered a change of ownership of the motor vehicle for the purposes of this section. The mortgage holder or lienholder shall not be required to make an odometer disclosure statement or state the current odometer setting at the time of the release of the lien where there is no change of ownership.

8. For the purposes of the mileage disclosure requirements of this section, if a certificate of ownership is held by a lienholder, if the transferor makes application for a duplicate certificate of ownership, or as otherwise provided in the federal Motor Vehicle Information and Cost Savings Act and related federal regulations, the transferor may execute a written power of attorney authorizing a transfer of ownership. The person granted such power of attorney shall restate exactly on the assignment of title the actual mileage disclosed at the time of transfer. The power of attorney shall accompany the certificate of ownership and the original power of attorney and a copy of the certificate of ownership shall be returned to the issuing state in the manner prescribed by the director of revenue, unless otherwise provided by federal law, rule or regulation. The department of revenue may prescribe a secure document for use in executing a written power of attorney, **and may allow electronic signatures on such document.** The department shall collect a fee for each form issued, not to exceed the cost of procuring the form.

407.556. 1. A violation of the provisions of sections 407.511 to 407.556 by any person licensed or registered as a manufacturer or dealer pursuant to the provisions of chapter

301, shall be considered a violation of the provisions of that chapter, subjecting that person to revocation or suspension of any license issued pursuant to the provisions of that chapter.

2. The provisions of sections 407.511 to 407.556 do not apply to the following motor vehicles:

(1) Any motor vehicle having a gross vehicle weight rating of more than sixteen thousand pounds;

(2) Any motor vehicle that is [ten] **twenty** years old or older;

(3) Any motor vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications; or

(4) Any new vehicle prior to its first transfer for purposes other than resale.

Section B. Because of the importance of combating human trafficking, and because of the importance of securing federal highway funding to maintain a safe and adequate system of highways in this state, the repeal and reenactment of sections 301.192, 301.280, 302.755, 407.526, 407.536, and 407.556 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 301.192, 301.280, 302.755, 407.526, 407.536, and 407.556 of this act shall be in full force and effect upon its passage and approval.

✓

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

June 3, 2021

RECEIVED
JUN 0 3 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Fiscal Note and Fiscal Note Summary Request for House Committee Substitute for House Joint Resolution No. 35

Dear Ms. Galloway:

Enclosed please find a copy of House Committee Substitute for House Joint Resolution No. 35 that was received by our office.

We are referring the enclosed joint resolution to you for the purposes of preparing a fiscal note and fiscal note summary in accordance with Sections 116.160.1, 116.170 and 116.175, RSMo. As you are aware, the fiscal note and fiscal note summary are required to be forwarded by you to our office within thirty days of receipt of the joint resolution, pursuant to Section 116.170, RSMo.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft
Secretary of State

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE JOINT RESOLUTION NO. 35

101ST GENERAL ASSEMBLY

0587H.03T 2021

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing Section 15 of Article IV of the Constitution of Missouri, and adopting one new section in lieu thereof relating to the state treasurer's ability to invest.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2022, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to Article IV of the Constitution of the state of Missouri:

Section A. Section 15, Article IV, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as Section 15, to read as follows:

Section 15. The state treasurer shall be custodian of all state funds and funds received from the United States government. The department of revenue shall take custody of and invest nonstate funds as defined herein, and other moneys authorized to be held by the department of revenue. All revenue collected and moneys received by the state which are state funds or funds received from the United States government shall go promptly into the state treasury. All revenue collected and moneys received by the department of revenue which are nonstate funds as defined herein shall be promptly credited to the fund provided by law for that type of money. Immediately upon receipt of state or United States funds the state treasurer shall deposit all moneys in the state treasury in banking institutions selected by him and approved by the governor and state auditor, and he shall hold them for the benefit of the respective funds to which they

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

belong and disburse them as provided by law. Unless otherwise provided by law, all interest received on nonstate funds shall be credited to such funds. The state treasurer shall determine by the exercise of his best judgment the amount of moneys in his custody that are not needed for current expenses and shall place all such moneys on time deposit, bearing interest, in banking institutions in this state selected by the state treasurer and approved by the governor and state auditor or in obligations of the United States government or any agency or instrumentality thereof maturing and becoming payable not more than [~~five~~] **seven** years from the date of purchase. In addition the treasurer may enter into repurchase agreements maturing and becoming payable within ninety days secured by United States Treasury obligations or obligations of United States government agencies or instrumentalities of any maturity, as provided by law. The treasurer may also invest in banker's acceptances issued by domestic commercial banks possessing the highest rating issued by a nationally recognized rating agency and in commercial paper issued by domestic corporations which has received the highest rating issued by a nationally recognized rating agency. **The treasurer may also invest in municipal securities possessing one of the five highest long term ratings or the highest short term rating issued by a nationally recognized rating agency and maturing and becoming payable not more than five years from the date of purchase. The treasurer may also invest in other reasonable and prudent financial instruments and securities as otherwise provided by law.** Investments in banker's acceptances and commercial paper shall mature and become payable not more than one hundred eighty days from the date of purchase, maintain the highest rating throughout the duration of the investment and meet any other requirements provided by law. The state treasurer shall prepare, maintain and adhere to a written investment policy which shall include an asset allocation plan limiting the total amount of state money which may be invested in each investment category authorized by this section. The investment and deposit of state, United States and nonstate funds shall be subject to such restrictions and requirements as may be prescribed by law. Banking institutions in which state and United States funds are deposited by the state treasurer shall give security satisfactory to the governor, state auditor and state treasurer for the safekeeping and payment of the deposits and interest thereon pursuant to deposit agreements made with the state treasurer pursuant to law. No duty shall be imposed on the state treasurer by law which is not related to the receipt, investment, custody and disbursement of state funds and funds received from the United States government. As used in the section, the term "banking institutions" shall include banks, trust companies, savings and loan associations, credit unions, production credit associations authorized by act of the United States Congress, and other financial institutions which are authorized by law to accept funds for deposit or which in the case of production credit associations, issues securities. As used in this section, the term "nonstate funds" shall include all taxes and fees imposed by political subdivisions and collected by the

department of revenue; all taxes which are imposed by the state, collected by the department of revenue and distributed by the department of revenue to political subdivisions; and all other moneys which are hereafter designated as "nonstate funds" to be administered by the department of revenue.

✓

Speaker of the House

President Pro Tem of the Senate

RECEIVED
MAY 25 2021
SECRETARY OF STATE
CAPITOL OFFICE

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-HJR 35)

Subject

House Committee Substitute for House Joint Resolution No. 35. (Received June 3, 2021)

Date

June 23, 2021

Description

This proposal would amend Article IV of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their

office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact.

Officials from the **Department of Commerce and Insurance** indicated this resolution, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for the House Committee Substitute for House Joint Resolution No. 35 proposing to amend Article IV.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to the duties of the State Treasurer should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this legislation would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to the duties of the State Treasurer should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated no fiscal impact for their office.

Officials from the **State Treasurer's office** indicated the following is the fiscal note for the Truly Agreed to and Finally Passed (TAFP) version of HJR 35. Their projected fiscal impact can be found within this fiscal note. They have no changes to the information they submitted for the preparation of this fiscal note.

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0587H.03T
Bill No.: Truly Agreed To and Finally Passed HCS for HJR 35
Subject: Treasurer, State; Bonds - General Obligation And Revenue
Type: Original
Date: June 1, 2021

Bill Summary: Modifies provisions for the State Treasurer's ability to invest.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue*	$0 or (More than $7,000,000)	$0 or could exceed $2,225,000	$0 or could exceed $2,225,000
Total Estimated Net Effect on General Revenue	**$0 or (More than $7,000,000)**	**$0 or could exceed $2,225,000**	**$0 or could exceed $2,225,000**

*The potential fiscal impact of "(More than $7,000,000)" in FY 2022 would be realized only if a special election were called by the Governor to submit this joint resolution to voters.

Oversight has ranged the fiscal impact in future years from $0 (joint resolution is defeated by voters), to the potential increase in investment income from allowing the Office of the State Treasurer to modify the investment portfolio.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

☒ Estimated Net Effect (savings or increased revenues) expected to exceed $250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	**$0***	**$0**	**$0**

*Transfer out and transfer in nets to zero **<u>if</u>** the Governor calls a special election.

FISCAL ANALYSIS

ASSUMPTION

Officials from **Office of the Secretary of State** assume, each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Joint Resolutions proposing a constitutional amendment are submitted to a vote of the people at the next general election. Article XII section 2(b) of the Missouri Constitution authorizes the Governor to order a special election for constitutional amendments referred to the people. If a special election is called to submit a Joint Resolution to a vote of the people, section 115.063.2 RSMo requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

The Secretary of State's office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. The SOS estimates $65,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

The Secretary of State's office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Oversight has reflected, in this fiscal note, the state potentially reimbursing local political subdivisions the cost of having this joint resolution voted on during a special election in fiscal year 2022. This reflects the decision made by the Joint Committee on Legislative Research that the potential cost of the elections should be shown in the fiscal note. The next scheduled statewide primary election is in August 2022 and the next scheduled general election is in

November 2022 (both in FY 2023). It is assumed the subject within this proposal could be on one of these ballots; however, it could also be on a special election called for by the Governor (a different date). Therefore, Oversight will reflect a potential election cost reimbursement to local political subdivisions in FY 2022.

Officials from the **Office of the State Treasurer (STO)** assume, with an expanded option of investments, they could increase interest income (at the current rates) to the General Revenue Fund by $935,000 annually.

Current investment return	0.50%
Current US Taxable GO AA+, AA, AA- Muni BVA return	0.72%

If the STO were to invest in Missouri Bonds, it would not exceed 5%-10% of the portfolio.

7.5% of the portfolio	$425,000,000
Return on current investments (0.50%)	$ 2,125,000
Anticipated return on Muni Bonds (0.72%)	$ 3,060,000
Difference	**$ 935,000**

If the STO were to invest in 6 or 7 year Agency Bonds, it would not exceed $500M of the portfolio.

Portfolio size	$500,000,000
Return on 5 year Agency Bonds	$ 4,175,000
Return on 6 or 7 year Agency Bonds	$ 5,465,000
Difference	**$ 1,290,000**

Oversight notes according to the STO's Portfolio Management Report from April 30, 2021, the STO had the following investments (Market Value):

U.S. Treasury Securities – Coupon	$ 289,994,138
U.S. Agency Discount Notes	$ 69,998,756
U.S. Agency Issues – Coupon	$ 457,524,485
Amortizing Commercial Paper	$ 747,954,703
U.S. Agency Issues – Callable	$3,174,994,578
Term Repo	$ 633,111,000
Overnight Repos	$1,377,106,000
Time Deposits – Market	$ 82,250,000
Linked Deposits	$ 195,642,267
Linked Deposits – FFCB	$ 134,348,000
CDs	$ 240,000
Investments	$7,163,163,927

The effective Rate of Return for January, 2021 was 0.46% and the fiscal year to date was 0.50%

Oversight will range the potential increase in interest income from $0 (HJR is defeated by voters), to the estimates provided by STO. For simplicity, Oversight will reflect the additional interest income starting in FY 2023.

Officials from the **Department of Revenue** and the **Office of Administration** each assume the proposal would not fiscally impact their respective departments. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

FISCAL IMPACT – State Government	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE FUND			
Income – STO potential increase in interest income if the STO invests in Missouri municipal bonds	$0	$0 or could exceed $935,000	$0 or could exceed $935,000
Income – STO potential increase in interest income if the STO invests in longer term bonds	$0	$0 or could exceed $1,290,000	$0 or could exceed $1,290,000
Transfer Out - SOS - reimbursement of local election authority election costs **if** a special election is called by the Governor	$0 or (More than $7,000,000)	$0	$0
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	**$0 or (More than $7,000,000)**	**$0 or could exceed $2,225,000**	**$0 or could exceed $2,225,000**

FISCAL IMPACT – Local Government	FY 2022 (10 Mo.)	FY 2023	FY 2024
LOCAL POLITICAL SUBDIVISIONS			
Transfer In - Local Election Authorities - reimbursement of election costs by the State for a special election	$0 or More than $7,000,000	$0	$0
Costs - Local Election Authorities - cost of a special election **if** called for by the Governor	$0 or (More than $7,000,000)	$0	$0
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	**$0**	**$0**	**$0**

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

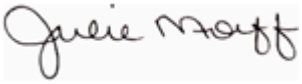
FISCAL DESCRIPTION

Upon voter approval, this proposed Constitutional amendment would change the authorized investments in which the State Treasurer could invest.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Department of Revenue
Office of Administration
Office of the State Treasurer



Julie Morff
Director
June 1, 2021



Ross Strope
Assistant Director
June 1, 2021

RAS:LR:OD

Officials from **Clay County** indicated they estimate an increase in interest/investment earnings of ~$25,000 a year as a result of this resolution.

For some clarifying explanation, as requested, the county's approved investment policy is tied directly to Article IV, Section 15, of the Missouri Constitution as well as RSMo 110.270. The lengthening in duration for investments to seven years from five years, they estimate based on higher yields, would result in more interest/investment earnings to their county. This along with the expansion to municipal holdings and other "reasonable and prudent" investments is how they made the ~$25,000 determination.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for House Committee Substitute for House Joint Resolution No. 35 proposing to amend Article IV.

Officials from the **City of Columbia** indicated:

Their local government estimates the fiscal impact of this bill for fiscal years 2022, 2023, and 2024 to be as follows:

Section 15 of the bill will allow the city to invest in municipal bonds. Depending on whether the citizen approves the bill, the City of Columbia may gain interest income ranging from $0 (if the voters reject the bill) to $9,832 per FY starting from 2023.

According to the Office of the State Treasurer (STO), municipal short-term and long-term bond interest rates are higher by 0.22% and 0.03% compared to conventional money market securities. It is unknown at this time how much the city, if any, would decide to invest in short-term and long-term bonds, however; every 1% of their total assets (4,000,000) invested could increase the city's interest income under each category by $8,800 and $1,032 per fiscal year, as shown below:

Fiscal Impact-City of Columbia	**Rate Increase**	**FY 2023**	**FY 2024**
1% of Total Portfolio in Municipal Bond	@0.22%	$8,800	$8,800
1% of Total Portfolio longer term Bond	@0.03%	$1,032	$1,032
Total		**$9,832**	**$9,832**

Officials from the **City of Kansas City** indicated this proposed amendment if passed could have a negative fiscal impact on their city given the unintended consequences of the legislation. The concern is that the 7-year note will almost never be favorable to the current 5-year allowed. This means a city or taxing jurisdiction may opt for the less favorable 7 year note.

According to their Finance Department:
The unintended consequences are in reference to the Federal Reserve's action to provide excess liquidity to the financial markets for the past 16 months. While the Federal Reserve's actions have averted a depression-like environment, there are unintended consequences to these actions which harm fixed-income investors. Currently, just to give you a reference,

1-year Treasury Bills are trading at 4 basis points, 2-year Treasury Notes are trading at 15 basis points, 5-year Treasury Notes are around 80 basis points, and 7-year Treasury Notes are trading around 120 basis points. These rates are currently positively-sloped, thus you would expect the more risk taken, the greater reward received.

Let us say that you buy 7-year Treasury Notes today at 120 basis points. Two-years from today, with a positively-sloping yield curve, say the Federal Funds rate is at 150 basis points. This means that the you have five more years to hold on to these original 7-year Treasury Notes to maturity or sell at a substantial loss. Whereas, if you leave the current 5-year maximum maturity in place you would now have only 3-years to remain underwater vs. the previously stated 5 years. With a positively-sloping yield curve, in the event of a sale you would suffer less of a loss than if you tried to sell the aforementioned original 7-year Treasury notes.

Another unintended consequence is that with rates so depressed, brokers in the governmental space are making less income in the current interest rate environment. Many municipalities use brokers to gain access to the financial markets. A dishonest broker can load a municipality up on 7-year paper. Granted the rate is better, but also the commission is better. An unsuspecting, smaller municipality employee who is wearing many hats, may decide to buy the longer-maturity paper, which may or may not be in the municipality's best interest. The maximum maturity for the State of Missouri is currently at 5 years. This proposal will open it up to a 7-year maximum maturity.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities estimate no costs and increased interest revenue of $2 million per year. Local governmental entities estimate no costs and increased interest revenue of at least $34,000 per year.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 23, 2022

RECEIVED
MAY 23 2022
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Fiscal Note and Fiscal Note Summary Request for House Joint Resolution No. 116

Dear Ms. Galloway:

Enclosed please find a copy of House Joint Resolution No. 116 that was received by our office.

We are referring the enclosed joint resolution to you for the purposes of preparing a fiscal note and fiscal note summary in accordance with Sections 116.160.1, 116.170 and 116.175, RSMo. As you are aware, the fiscal note and fiscal note summary are required to be forwarded by you to our office within thirty days of receipt of the joint resolution, pursuant to Section 116.170, RSMo.

Thank you for your immediate consideration of this request.

Sincerely,



John R. Ashcroft
Secretary of State

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

RECEIVED
MAY 18 2022
MO. SECRETARY OF STATE

SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

HOUSE JOINT RESOLUTION NO. 116

101ST GENERAL ASSEMBLY

5096H.01T 2022

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing Section 12 of Article IV of the Constitution of Missouri, and adopting two new sections in lieu thereof relating to the state department of the national guard.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2022, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to Article IV of the Constitution of the state of Missouri:

Section A. Section 12, Article IV, Constitution of Missouri, is repealed and two new sections adopted in lieu thereof, to be known as Sections 12 and 54, to read as follows:

Section 12. The executive department shall consist of all state elective and appointive officials and employees except officials and employees of the legislative and judicial departments. In addition to the governor and lieutenant governor there shall be a state auditor, secretary of state, attorney general, a state treasurer, an office of administration, a department of agriculture, a department of conservation, a department of natural resources, a department of elementary and secondary education, a department of higher education, a department of highways and transportation, a department of insurance, a department of labor and industrial relations, a department of economic development, a department of public safety, a department of revenue, a department of social services, **a department of the National Guard,** and a department of mental health. In addition to the elected officers, there

EXPLANATION — Matter enclosed in bold-faced brackets **[~~thus~~]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

shall not be more than [~~fifteen~~] **sixteen** departments and the office of administration. The general assembly may create by law two departments, in addition to those named, provided that the departments shall be headed by a director or commission appointed by the governor on the advice and consent of the senate. The director or commission shall have administrative responsibility and authority for the department created by law. Unless discontinued all present or future boards, bureaus, commissions and other agencies of the state exercising administrative or executive authority shall be assigned by law or by the governor as provided by law to the office of administration or to one of the [~~fifteen~~] **sixteen** administrative departments to which their respective powers and duties are germane.

Section 54. There shall be established a Missouri Department of the National Guard in charge of the adjutant general appointed by and serving at the pleasure of the governor, by and with the advice and consent of the senate, who shall provide for the state militia, uphold the Constitution of the United States, uphold the Constitution of Missouri, protect the constitutional rights and civil liberties of Missourians, and provide other defense and security mechanisms as may be required.

Section B. Pursuant to chapter 116, and other applicable constitutional provisions and laws of this state allowing the general assembly to adopt ballot language for the submission of this joint resolution to the voters of this state, the official summary statement of this resolution shall be as follows:

"Shall the Missouri National Guard currently under the Missouri Department of Public Safety be its own department, known as the Missouri Department of the National Guard, which shall be required to protect the constitutional rights and civil liberties of Missourians?".

✓

Speaker of the House

President Pro Tem of the Senate

RECEIVED
MAY 18 2022
SECRETARY OF STATE
CAPITOL OFFICE

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-HJR 116)

Subject

House Joint Resolution No. 116. (Received May 23, 2022)

Date

June 10, 2022

Description

This proposal would amend Article IV of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their

office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact to their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated they do not anticipate an impact.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this resolution, if passed, will have no anticipated cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this house joint resolution proposing to amend Article IV.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their office.

Officials from the **Department of Public Safety - Missouri National Guard** indicated a fiscal impact of $132,000 annual ongoing costs (One FTE (full-time employee) and some adjustment of duties of current FTEs would be needed for the Missouri National Guard to function as a department instead of a division within a department.).

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to establishing the Department of the National Guard should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated this house joint resolution will have no fiscal impact on their department.

Officials from the **Department of Transportation** indicated no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to establishing the Department of the National Guard should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate no fiscal impact from this resolution.

Officials from the **City of Jefferson** indicated they would not anticipate any costs (or savings) specifically to their city as a result of this resolution being adopted.

Officials from the **City of Kansas City** indicated this legislation would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri** indicated this fiscal note has no impact on the University of Missouri System.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities estimate no savings and ongoing costs of $132,000 annually. Local governmental entities estimate no costs or savings.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

April 18, 2022

RECEIVED
APR 18 2022
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Tohlei Dumizo regarding a proposed constitutional amendment to Article XV (2022-089)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Tohlei Dumizo on April 18, 2022.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

Page Number_____ County_____

It is a Class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RsMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than their own, or knowingly to sign their name more than once for the same measure for the same election, or to sign a petition when such person knows they are not a registered voter.

Initiative Petition

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town, or village in which I live are correctly written after my name.

(Official Ballot Title) _____

Circulator's Affidavit

State of Missouri, County of _____

I, _____ being first duly sworn, say (print or type names of signers)

	Name (signature)	Date signed	Registered Voting Address (Street) (City, Town, or Village)	Zip code	Congressional District	Name (printed or typed)
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
15.						
16.						
17.						

RECEIVED 2022 APR 18 AM 9:10

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town, or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis).

Furthermore, I hereby swear or affirm under penalty of perjury that all statements made by me are true and correct and that I have never been convicted of, found guilty of, or pled guilty to any offense involving forgery.

I am at least eighteen years of age, I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

Signature of Affiant (person obtaining signatures) _____

Address of Affiant _____ Printed name of Affiant _____

Subscribed and sworn to before me this ___ day of _____ CE 20____. Signature of Notary _____

Address of Notary _____ Notary Public (Seal) My commission expires_____

Notice: The proposed amendment creates one new section of one new Article, to be known as Article XV, Section 1.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article XV is created by adopting one new section to be known as Section 1.

Article XV, Section 1. The provisions of this section shall be known as the Right to Remember Amendment. Missouri has a proud heritage of leadership and volunteerism by private citizens who have helped build this state and nation, and who have ensured that the enduring lessons of our history are remembered and handed down to future generations of Missourians. It shall therefore continue to be the public policy of this state to remember our nation's and state's historic conflicts, events, and figures by preserving the historical memorials and monuments in this state.

(a) No memorial that is, or is located on, public property, may be removed, renamed, un-named, relocated, materially altered, rededicated, or de-dedicated, except in such manner and to such extent as the General Assembly may provide by law,

(b) In making provisions by law under subsection (a), the General Assembly may pass or repeal a local or special law or repeal in part a general law, notwithstanding that a general law could have been made applicable. However, in passing or repealing such special or local law, the General Assembly shall comply with Article III, Section 42 of this Constitution.

(c) Nothing herein shall prevent or prohibit the following acts, so long as the acting entity ensures that any memorial is preserved to the greatest extent possible;

(1) a public entity having responsibility for maintaining a memorial, or a nonprofit entity acting with permission of the public entity, taking proper and appropriate measures, and exercising proper and appropriate mans, for the upkeep, care, preservation, protection, repair, and restoration of the memorial;

(2) the state relocating, removing, or materially altering a memorial located on public property if it determines that the memorial interferes with the construction, maintenance, or operation of public property or improvements to public property, so long as any such action is also taken consistent with federal historical preservation law;

(3) the General Assembly taking any action necessary to comply with federal law or passing general laws necessary to allow the state or persons residing in Missouri to compete for, or maintain eligibility for, federal grants, federal contracts, or other federal funding opportunities; the state from taking any act required by federal law to maintain a state historic preservation officer, as may be defined by federal law, or a state historic preservation program, as may be defined by federal law; any local government from taking any act required by federal law to seek or maintain status as a certified local government, as may be defined by federal law.

(d) For purposes of this section:

(1) "Historic conflict" means any war, battle, or military conflict in which citizens of the United States or any state or territory of the United States have participated;

(2) "Historic entity" means any entity recognized as having state, national, military, or historical significance;

(3) "Historic event" means any event recognized as having state, national, military, or historical significance;

(4) "Historic figure" means any individual who has been recognized as having served or participated in any historic conflict, historic event, historic entity, public office, or in public service;

(5) "Historic organization" means any entity that has as one (1) or more of its material missions the recognition of, or preservation of sites, structures, or artifacts relating to any historic conflict, historic entity, historic event, or historic figure;

(6) "Memorial" means:

a. Any public real property or park, preserve, or reserve located on public property that has been named or dedicated in honor of any historic conflict, historic entity, historic event, historic figure, or historic organization; or

b. Any stature, monument, memorial, bust, nameplate, plaque, artwork, flag, the name of any school, street, bridge, or building, or historical display that has been erected for, named, or dedicated on public property in honor of any historic conflict, historic entity, historic event, historic figure, or historic organization; and

(7) "Public property" means all property owned, leased, rented, managed, or maintained by or under the authority of this state, any county, municipality, metropolitan government, special district, or any other public entity that is created by act of the General Assembly to perform any public function.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

March 15, 2022

RECEIVED
MAR 15 2022
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Tohlei Dumizo regarding a proposed constitutional amendment to Article XV (2022-088)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Tohlei Dumizo on March 15, 2022.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____ Page Number _____

It is a Class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RsMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than their own, or knowingly to sign their name more than once for the same measure for the same election, or to sign a petition when such person knows they are not a registered voter.

Initiative Petition

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town, or village in which I live are correctly written after my name.

(Official Ballot Title) _____

Circulator's Affidavit

State of Missouri, County of _____

I, _____ being first duly sworn, say (print or type names of signers)

RECEIVED
2022 MAR 15 AM 8:41

	Name (signature)	Date signed	Registered Voting Address (Street) (City, Town, or Village)	Zip code	Congressional District	Name (printed or typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town, or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis).

Furthermore, I hereby swear or affirm under penalty of perjury that all statements made by me are true and correct and that I have never been convicted of, found guilty of, or pled guilty to any offense involving forgery.

I am at least eighteen years of age, I do ____ do not _____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

Signature of Affiant (person obtaining signatures) _____

Address of Affiant _____ Printed name of Affiant _____

Subscribed and sworn to before me this ___ day of _____ CE 20____ . Signature of Notary _____

Address of Notary _____Notary Public (Seal) My commission expires_____

Notice: The proposed amendment creates one new section of one new Article, to be known as Article XV, Section 1.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article XV is created by adopting one new section to be known as Section 1.

Article XV, Section 1. The provisions of this section shall be known as the Right to Remember Amendment. Missouri has a proud heritage of leadership and volunteerism by private citizens who have helped build this state and nation, and who have ensured that the enduring lessons of our history are remembered and handed down to future generations of Missourians. It shall therefore continue to be the public policy of this state to remember our nation's and state's historic conflicts, events, and figures by preserving the historical memorials and monuments in this state.

(a) No memorial that is, or is located on, public property, may be removed, renamed, un-named, relocated, materially altered, rededicated, or de-dedicated, except in such manner and to such extent as the General Assembly may provide by law,

(b) In making provisions by law under subsection (a), the General Assembly may pass or repeal a local or special law or repeal in part a general law, notwithstanding that a general law could have been made applicable. However, in passing or repealing such special or local law, the General Assembly shall comply with Article III, Section 42 of this Constitution.

(c) Nothing herein shall prevent or prohibit the following acts, so long as the acting entity ensures that any memorial is preserved to the greatest extent possible;

  (1) a public entity having responsibility for maintaining a memorial, or a nonprofit entity acting with permission of the public entity, taking proper and appropriate measures, and exercising proper and appropriate mans, for the upkeep, care, preservation, protection, repair, and restoration of the memorial;

  (2) the state relocating, removing, or materially altering a memorial located on public property if it determines that the memorial interferes with the construction, maintenance, or operation of public property or improvements to public property, so long as any such action is also taken consistent with federal historical preservation law;

  (3) the General Assembly taking any action necessary to comply with federal law or passing general laws necessary to allow the state or persons residing in Missouri to compete for, or maintain eligibility for, federal grants, federal contracts, or other federal funding opportunities; the state from taking any act required by federal law to maintain a state historic preservation officer, as may be defined by federal law, or a state historic preservation program, as may be defined by federal law; any local government from taking any act required by federal law to seek or maintain status as a certified local government, as may be defined by federal law.

(d) For purposes of this section:

  (1) "Historic conflict" means any war, battle, or military conflict in which citizens of the United States or any state or territory of the United States have participated;

(2) "Historic entity" means any entity recognized as having state, national, military, or historical significance;

(3) "Historic event" means any event recognized as having state, national, military, or historical significance;

(4) "Historic figure" means any individual who has been recognized as having served or participated in any historic conflict, historic event, historic entity, public office, or in public service;

(5) "Historic organization" means any entity that has as one (1) or more of its material missions the recognition of, or preservation of sites, structures, or artifacts relating to any historic conflict, historic entity, historic event, or historic figure;

(6) "Memorial" means:

a. Any public real property or park, preserve, or reserve located on public property that has been named or dedicated in honor of any historic conflict, historic entity, historic event, historic figure, or historic organization; or

b. Any stature, monument, memorial, bust, nameplate, plaque, artwork, flag, the name of any school, street, bridge, or building, or historical display that has been erected for, named, or dedicated on public property in honor of any historic conflict, historic entity, historic event, historic figure, or historic organization; and

(7) "Public property" means all property owned, leased, rented, managed, or maintained by or under the authority of this state, any county, municipality, metropolitan government, special district, or any other public entity that is created by act of the General Assembly to perform any public function.

22-087

RECEIVED

FEB 18 2022

STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 18, 2022

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Tohlei Dumizo regarding a proposed constitutional amendment to Article XV (2022-087)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Tohlei Dumizo on February 17, 2022.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____ Page Number _____

It is a Class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RsMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than their own, or knowingly to sign their name more than once for the same measure for the same election, or to sign a petition when such person knows they are not a registered voter.

RECEIVED

2022 FEB 17 AM 10:42

Initiative Petition

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town, or village in which I live are correctly written after my name.

(Official Ballot Title) _____

Circulator's Affidavit

State of Missouri, County of _____

I, _____ being first duly sworn, say (print or type names of signers)

	Name (signature)	Date signed	Registered Voting Address (Street) (City, Town, or Village)	Zip code	Congressional District	Name (printed or typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town, or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis).

Furthermore, I hereby swear or affirm under penalty of perjury that all statements made by me are true and correct and that I have never been convicted of, found guilty of, or pled guilty to any offense involving forgery.

I am at least eighteen years of age, I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

Signature of Affiant (person obtaining signatures) _____

Address of Affiant _____ Printed name of Affiant _____

Subscribed and sworn to before me this ___ day of _____ CE 20____ . Signature of Notary _____

Address of Notary _____Notary Public (Seal) My commission expires_____

Notice: The proposed amendment creates one new section of one new Article, to be known as Article XV, Section 1.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article XV is created by adopting one new section to be known as Section 1.

Article XV, Section 1. The provisions of this section shall be known as the Right to Remember Amendment. Missouri has a proud heritage of leadership and volunteerism by private citizens who have helped build this state and nation, and who have ensured that the enduring lessons of our history are remembered and handed down to future generations of Missourians. It shall therefore continue to be the public policy of this state to remember our nation's and state's historic conflicts, events, and figures by preserving the historical memorials and monuments in this state.

(a) No memorial that is, or is located on, public property, may be removed, renamed, un-named, relocated, materially altered, rededicated, or de-dedicated, except in such manner and to such extent as the General Assembly may provide by law,

(b) In making provisions by law under subsection (a), the General Assembly may pass or repeal a local or special law or repeal in part a general law, notwithstanding that a general law could have been made applicable. However, in passing or repealing such special or local law, the General Assembly shall comply with Article III, Section 42 of this Constitution.

(c) Nothing herein shall prevent or prohibit the following acts, so long as the acting entity ensures that any memorial is preserved to the greatest extent possible;

    (1) a public entity having responsibility for maintaining a memorial, or a nonprofit entity acting with permission of the public entity, taking proper and appropriate measures, and exercising proper and appropriate mans, for the upkeep, care, preservation, protection, repair, and restoration of the memorial;

    (2) the state relocating, removing, or materially altering a memorial located on public property if it determines that the memorial interferes with the construction, maintenance, or operation of public property or improvements to public property, so long as any such action is also taken consistent with federal historical preservation law;

    (3) the General Assembly taking any action necessary to comply with federal law or passing general laws necessary to allow the state or persons residing in Missouri to compete for, or maintain eligibility for, federal grants, federal contracts, or other federal funding opportunities; the state from taking any act required by federal law to maintain a state historic preservation officer, as may be defined by federal law, or a state historic preservation program, as may be defined by federal law; any local government from taking any act required by federal law to seek or maintain status as a certified local government, as may be defined by federal law.

(d) For purposes of this section:

    (1) "Historic conflict" means any war, battle, or military conflict in which citizens of the United States or any state or territory of the United States have participated;

(2) "Historic entity" means any entity recognized as having state, national, military, or historical significance;

(3) "Historic event" means any event recognized as having state, national, military, or historical significance;

(4) "Historic figure" means any individual who has been recognized as having served or participated in any historic conflict, historic event, historic entity, public office, or in public service;

(5) "Historic organization" means any entity that has as one (1) or more of its material missions the recognition of, or preservation of sites, structures, or artifacts relating to any historic conflict, historic entity, historic event, or historic figure;

(6) "Memorial" means:

a. Any public real property or park, preserve, or reserve located on public property that has been named or dedicated in honor of any historic conflict, historic entity, historic event, historic figure, or historic organization; or

b. Any stature, monument, memorial, bust, nameplate, plaque, artwork, flag, the name of any school, street, bridge, or building, or historical display that has been erected for, named, or dedicated on public property in honor of any historic conflict, historic entity, historic event, historic figure, or historic organization; and

(7) "Public property" means all property owned, leased, rented, managed, or maintained by or under the authority of this state, any county, municipality, metropolitan government, special district, or any other public entity that is created by act of the General Assembly to perform any public function.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 4, 2022

RECEIVED
FEB 04 2022
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Tohlei Dumizo regarding a proposed constitutional amendment to Article XIV (2022-086)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Tohlei Dumizo on February 4, 2022.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____ Page Number _____

It is a Class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RsMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than their own, or knowingly to sign their name more than once for the same measure for the same election, or to sign a petition when such person knows they are not a registered voter.

Initiative Petition

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town, or village in which I live are correctly written after my name.

(Official Ballot Title) _____

Circulator's Affidavit

State of Missouri, County of _____

I, _____ being first duly sworn, say (print or type names of signers)

RECEIVED
2022 FEB 14 AM 8:40

	Name (signature)	Date signed	Registered Voting Address (Street) (City, Town, or Village)	Zip code	Congressional District	Name (printed or typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town, or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis).

Furthermore, I hereby swear or affirm under penalty of perjury that all statements made by me are true and correct and that I have never been convicted of, found guilty of, or pled guilty to any offense involving forgery.

I am at least eighteen years of age, I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

Signature of Affiant (person obtaining signatures) _____

Address of Affiant _____ Printed name of Affiant _____

Subscribed and sworn to before me this ___ day of _____ CE 20____ . Signature of Notary _____

Address of Notary _____ Notary Public (Seal) My commission expires _____

NOTICE: The proposed amendment creates one new section of one new Article, to be known as Article XIV, Section 1.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article XIV is created by adopting one new section to be known as Section 1.

ARTICLE XIV, SECTION 1. The provisions of this section shall be known as the Right to Remember Amendment. Missouri has a proud heritage of leadership and volunteerism by private citizens who have helped build this state and nation, and who have ensured that the enduring lessons of our history are remembered and handed down to future generations of Missourians. It shall therefore continue to be the public policy of this state to remember our nation's and state's historic conflicts, events, and figures by preserving the historical memorials and monuments in this state.

(a) No memorial that is, or is located on, public property, may be removed, renamed, un-named, relocated, materially altered, rededicated, or de-dedicated, except in such manner and to such extent as the general assembly may provide by law.

(b) In making provisions by law under subsection (a), the general assembly may pass or repeal a local or special law or repeal in part a general law, notwithstanding that a general law could have been made applicable. However, in passing or repealing such special or local law, the general assembly shall comply with article III, section 42 of this constitution.

(c) Nothing herein shall prevent or prohibit the following acts, so long as the acting entity ensures that any memorial is preserved to the greatest extent possible: (1) a public entity having responsibility for maintaining a memorial, or a nonprofit entity acting with permission of the public entity, taking proper and appropriate measures, and exercising proper and appropriate means, for the upkeep, care, preservation, protection, repair, and restoration of the memorial;

(2) the state relocating, removing, or materially altering a memorial located on public property if it determines that the memorial interferes with the construction, maintenance, or operation of public property or improvements to public property, so long as any such action is also taken consistent with federal historical preservation law;

(3) the general assembly taking any action necessary to comply with federal law or passing general laws necessary to allow the state or persons residing in Missouri to compete for, or maintain eligibility for, federal grants, federal contracts, or other federal funding opportunities; the state from taking any act required by federal law to maintain a state historic preservation officer, as may be defined by federal law, or a state historic preservation program, as may be defined by federal law; any local government from taking any act required by federal law to seek or maintain status as a certified local government, as may be defined by federal law.

(d) For purposes of this section: (1) "Historic conflict" means any war, battle, or military conflict in which citizens of the United States or any state or territory of the United States have participated;

(2) "Historic entity" means any entity recognized as having state, national, military, or historical significance;

(3) "Historic event" means any event recognized as having state, national, military, or historical significance;

(4) "Historic figure" means any individual who has been recognized as having served or participated in any historic conflict, historic event, historic entity, public office, or in public service;

(5) "Historic organization" means any entity that has as one (1) or more of its material missions the recognition of, or preservation of sites, structures, or artifacts relating to, any historic conflict, historic entity, historic event, or historic figure;

(6) "Memorial" means: (A) Any public real property or park, preserve, or reserve located on public property that has been named or dedicated in honor of any historic conflict, historic entity, historic event, historic figure, or historic organization; or (B) Any statue; monument; memorial; bust; nameplate; plaque; artwork; flag; the name of any school, street, bridge, or building; or historical display that has been erected for, named, or dedicated on public property in honor of any historic conflict, historic entity, historic event, historic figure, or historic organization; and

(7) "Public property" means all property owned, leased, rented, managed, or maintained by or under the authority of this state, any county, municipality, metropolitan government, special district, or any other public entity that is created by act of the general assembly to perform any public function.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 24, 2022

RECEIVED
JAN 24 2022
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Connor Toth regarding a proposed constitutional amendment to Article VIII (2022-085)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Connor Toth on January 24, 2022.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-085

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

Page No: _____

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri: We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2022 JUN 24 AM 8:5

(Official Ballot title) _____

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____, being first duly sworn, say (print or type names of signers)

	NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County. FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

_____ Signature of Notary

_____ Address of Notary

(Notary Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article VIII, Section 24 of the Constitution is enacted to read as follows:

1. As used in this section, the following terms mean:

(1) "Instant runoff voting", a procedure of voting as described under this section that requires a candidate to receive a majority rather than a plurality of all votes cast for an elected office before the candidate wins the election and that allows voters to cast votes for candidates on a ranked-choice ballot;

(2) "Ranked-choice ballot" or "ballot", a ballot that allows voters to cast a vote for multiple candidates in order of preference by assigning a rank to each candidate for the office;

(3) "Continuing ballot", a ballot that has not been exhausted by the instant runoff vote;

(4) "Continuing candidate", a candidate who has not been eliminated by the instant runoff vote;

(5) "Exhausted ballot", a ballot on which all votes cast are for candidates who have been eliminated;

(6) "Federal elected office", any federal office including, but not limited to, United States President, United States presidential elector, United States Senator, or United States Representative;

(7) "State elected office", any elected office of the state including, but not limited to, governor, lieutenant governor, attorney general, secretary of state, state treasurer, state auditor, supreme court judge, circuit court judge, associate circuit court judge, general assembly senator, or general assembly representative;

(8) "Local elected office", any office that requires voters go to the polls to elect candidates including, but not limited to, local offices such as any county, township, city, town, village, fire district, library district, port authority, school district, or special district office;

2. Beginning on January 1, 2026, all primary and general elections for federal elected office or state elected office shall implement instant runoff voting and ranked-choice ballots.

3. Beginning January 1, 2026, election authorities shall implement instant runoff voting for primary and general elections for local elected office. A political subdivision, special district, or county that is subject to this section may opt out of the instant runoff requirements of this section by ordinance or rule, provided that written notice of such action is transmitted to the election authority no later than thirty days prior to the filing deadline for placing any candidate or measure on the ballot. Any election authority may use multiple ballot styles or ballots in order to accommodate the counting of votes under this section.

4. Votes for all candidates elected using instant runoff voting and ranked-choice ballots shall be counted and recorded and certified in the following manner:

(1) Each ranked-choice ballot shall be counted as one vote for the continuing candidate whom the voter selects as the voter's highest preference of continuing candidates. A candidate shall not receive a vote after such candidate has been eliminated in instant runoff voting. A candidate for whom the voter noted a lower preference shall not receive a vote unless and until that candidate is the continuing candidate with the highest preference on the voter's ranked-choice ballot;

(2) If a candidate receives a majority of the votes cast in the first count of instant runoff votes, that candidate shall be certified as the winner;

(3) If no candidate receives a majority of votes after the first count of instant runoff votes, the candidate who received the fewest votes shall be eliminated, and each vote cast for such eliminated candidate shall be redistributed to the continuing candidate whom the voter noted as the voter's next highest preference. If, after this redistribution of votes, any continuing candidate receives a majority of the votes cast on the continuing ballots, that continuing candidate shall be certified as the winner;

(4) If no candidate receives a majority of the votes cast on the continuing ballots after the procedure described in subdivision (3) of this subsection, the continuing candidate who received the fewest votes shall be eliminated. Each vote cast for such eliminated candidate shall be redistributed to the continuing candidate whom the voter noted as the voter's next highest preference. This process of eliminating the candidate with the fewest votes and redistributing such eliminated candidate's votes to the voter's next highest preferred continuing candidate shall be repeated until a candidate receives a majority of the votes cast on the continuing ballots;

(5) If the total number of votes for the two or more candidates credited with the lowest number of votes is fewer than the number of votes credited to the continuing candidate with the next highest number of votes, those candidates with the lowest number of votes shall be eliminated simultaneously and their votes transferred to the next ranked continuing candidate on each ballot in a single counting operation; and

(6) A tie between two or more candidates shall be resolved by weighting the preference of votes for each candidate and decided in favor of the candidate who received more votes at a higher preference. If a tie still exists between two or more candidates, the tie shall be resolved by a uniformly random selection method conducted by the election authority and votes of the eliminated candidate shall be redistributed to the continuing candidate whom the voter selected as the voter's next highest preference.

5. As used in the following subsection, the following terms mean:

(1) "Election quota", the number of votes sufficient for a candidate to be certified as a winner. The election quota is defined to be equal to the integer part of ((total valid votes cast)/(seats to be elected + 1)) + 1;

(2) "Transfer value", the proportion of a vote that a ballot will contribute to its highest-ranked continuing candidate with an initial value of one;

(3) "Surplus fraction", for an elected candidate, a number equal to (candidate's vote total at time of designation as elected - election quota)/(candidate's vote total at time of designation as elected) rounded down to four decimal places and ignoring any remainder;

6. For elections in which more than one candidate is to be elected to an office in a multiple-seat district or on a governing body that includes multiple at-large seats, a ranked-choice ballot shall be used. The ballots shall be counted and certified in the following manner:

(1) Each ranked-choice ballot shall be counted at its current transfer value for the continuing candidate whom the voter selects as the voter's highest preference of continuing candidates. A candidate shall not receive a vote after such candidate has been eliminated in instant runoff voting. A candidate for whom the voter noted a lower preference shall not receive a vote unless and until that candidate is the continuing candidate with the highest preference on the voter's ranked choice ballot;

(2) If the number of continuing candidates is less than or equal to the number of seats to be filled, then continuing candidates are elected and tabulation is complete. If the number of elected candidates is equal to the number of seats to be filled, then all non-elected candidates are eliminated and tabulation is complete. If the sum of the number of elected candidates and the number of continuing candidates is equal to the number of seats to be filled, then all continuing candidates are certified as winners and tabulation is complete. Otherwise, tabulation proceeds pursuant to paragraph (3).

(3) If any continuing candidate has a number of votes greater than or equal to the election quota, then that candidate shall be certified as a winner. Each ballot counting for an elected candidate is assigned a new transfer value by multiplying the ballot's current transfer value by the surplus fraction for the elected candidate rounded down to four decimal places and ignoring any remainder. If each of two or more candidates has a number of votes greater than or equal to the election quota for the election at the same time, the surpluses shall be distributed simultaneously. Each candidate elected under this paragraph is deemed to have a number of votes equal to the election quota in all future rounds and a new round begins pursuant to paragraph (2).

(4) If no candidate is elected pursuant to paragraph (3), then all candidates in the elimination batch for the round are eliminated through batch elimination. Votes for eliminated candidates shall be transferred to each ballot's next ranked continuing candidate and a new round begins pursuant to paragraph (2).

7. If the voting system used by an election authority cannot feasibly accommodate choices equal to the total number of candidates running for each office, the election authority may limit the number of choices a voter may rank to no fewer than three per open seat. The ballot shall in no way interfere with a voter's ability to cast a write-in vote for a candidate.

8. No exhausted ballot shall be counted in further stages of the tabulation. If a ranked-choice ballot gives equal rank to two or more candidates, the ballot shall be declared exhausted if such multiple rankings are reached. If a voter casts a ranked-choice ballot but skips a rank, the voter's vote shall be transferred to that voter's next ranked choice.

9. Any election dispute regarding the implementation of a limit on the number of ranked candidates on a ballot under subsection 7 of this section shall be first appealed to the secretary of state for a final order and thereafter may be appealed to any court of competent jurisdiction.

10. All provisions in this section shall govern instant runoff voting and ranked-choice ballots.

11. The secretary of state shall conduct a voter education campaign to familiarize voters with the instant runoff voting systems and ranked-choice ballots. The voter education campaign may be conducted through existing voter outreach channels.

12. On the effective date of this section, any voting machine not compatible with instant runoff voting that is removed from any election authority's inventory due to mechanical malfunction, wear and tear, or any other reason shall not be replaced. No additional voting machines not compatible with instant runoff voting shall be added to the inventory of any election authority. The provisions of this subsection shall not require the breach of an existing contract.

13. Instant runoff voting shall be applied by an election authority when a sufficient inventory of instant runoff voting compatible equipment is acquired through the replacement of existing equipment under subsection 11 of this section.

14. The examination and certification of the instant runoff voting system shall be conducted in the same manner as other automated systems and in accordance with applicable federal standards. The instant runoff voting system shall be certified before it is implemented.

15. The secretary of state may allow the submission of a new voting system to accommodate instant runoff voting, but shall require independent testing and certification and retention of records for any modifications made to existing voting systems. The manufacturer of the voting system shall retain legal authority to provide all software data to the secretary of state.

16. Upon implementation of the instant runoff voting system, the local election authority shall be required to verify the election results using statistically random sample sizes to limit the margin of error to less than one percent.

17. The secretary of state may promulgate rules as necessary for the implementation of this section.

18. If any provision of this section or the application thereof to anyone or any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-085)

Subject

Initiative petition from Connor Toth regarding a proposed constitutional amendment to Article VIII. (Received January 24, 2022)

Date

February 10, 2022

Description

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated there is no fiscal or programmatic impact to their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact for their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no anticipated cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article VIII.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department, Director's Office.

Officials from the **Department of Social Services** indicated this initiative petition will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to elections should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there would be no adverse fiscal impact to their department related to this proposal.

Officials from the **Department of Transportation** indicated this initiative petition should not have a fiscal impact on their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to elections should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this petition would transition Missouri elections to a ranked-choice voting system by January 1, 2026. There are three potential areas of expense which could be incurred in implementing this measure: the required public education campaign, reprogramming of the state election management system, and replacement of voting machines. The state may be required to pay any or all of these costs under Article X, Section 21 of the Missouri Constitution.

This measure would require their office to conduct a voter education campaign to familiarize voters with the instant runoff voting system and ranked-choice ballots. The precise cost of such a campaign would vary depending on strategic decisions and appropriation by the General Assembly. A statewide educational campaign is estimated to reach or exceed $2,000,000 beginning in fiscal year (FY) 2026. Primarily this would be one-time costs but with the possibility to carry over, especially if the campaign is implemented a significant time before the election at which the system first sees service.

Additionally, the Missouri Centralized Voter Registration program (MCVR) would need to be modified to accept ranked-choice vote totals. The total numbers of each different ballot ranking combination would need to be tabulated in MCVR from the local election authorities (LEAs) before the instant runoff process could take place, especially in the case of statewide races. This would require programming resources to be devoted beyond those covered under the normal maintenance and upkeep contracts. Labor costs to program this modification are estimated by the vendor at $46,000, to be executed in FY 2025 or FY 2026 in preparation for the time when ranked-choice voting begins in 2026.

Finally, in order to properly handle ranked-choice ballots, all voting equipment statewide must either be updated with code which allows ranked-choice voting or be replaced with

ranked-choice-compatible machines. Since reprogramming can reasonably be considered a lesser cost than full replacement, they present the replacement cost as a maximum for this potential expense. The latest voting systems survey, conducted in 2020, found 5,735 pieces of election equipment in service statewide. At an average replacement cost of $5,000 per machine, this could result in a cost of up to $28,675,000 in FY 2025 or FY 2026.

Each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following costs with this petition:

- Approximate printed general election ballots cost increase of about $20,000 ***This is the only recurring cost per general election, the rest are one-time

- Approximate printed primary election ballots cost increase of about $20,000 ***This is the only recurring cost per primary election, the rest are one-time
- Approximate advertising for voter education cost increase of about $500
- Approximate staff training cost increase of about $1,000
- Approximate voting machine software upgrade cost increase of about $10,000

Total estimated costs of $51,500. Only $11,500 as one-time. Recurring costs of $20,000 every even year primary election and $20,000 every even year general election or $40,000 every two years.

Officials from **Greene County** indicated there will be an increased cost to the county if voters vote to amend Article VIII with the proposed language in this initiative petition.

The sum of those cost estimates respectively to implement a Ranked-Choice Voting (RCV) and Instant Runoff (IR) for primary and general elections are as follows:

Primary Election Estimated Total Cost:	$443,499.13
General Election Estimated Total Cost:	$455,804.63

The actual costs of the 2020 Elections are as follows:

August 2020 Actual Cost:	$374,278.29
November 2020 Actual Cost:	$450,665.80

The difference would be the following for each:

Primary: $374,278.29 - $443,499.13 =	-$69,170.84
General: $450,665.80 - $455,804.63 =	-$5,138.83
Total Cost Increase for both Elections:	$74,309.67

These costs are ongoing costs and are related to the computer programming cost and the amount increased for each contest to perform a RCV/IR election.

Officials from the **City of Kansas City** indicated this initiative petition will not have a fiscal impact on their city.

Officials from the **City of St. Joseph** indicated no financial impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri** indicated the university has no direct impact from this initiative petition.

Officials from the **St. Louis County Board of Elections** indicated they believe this will have a fiscal impact of anywhere from $0 - 50,000 in one-time costs because it is unknown if they would need to pay for new software or to use open-sourced software.

Officials from the **Board of Election Commissioners City of St. Louis** indicated this initiative petition implements ranked choice voting. Their current voting system does not have the capacity to conduct ranked choice voting. However, they are in the process of acquiring a new voting system. Any system they are likely to purchase would have the ability to conduct such an election. Therefore, it is anticipated this petition, if adopted, would have no fiscal impact on their organization.

Officials from the **Kansas City Board of Election Commissioners indicated** there is a huge fiscal impact. There is also a huge psychological impact this will have on the voters.

All of their equipment software would have to be updated for $50,000 (one-time cost) and recalibrated at $25,000 per election. Ballots would cost 50-75 cents for a three page ballot at roughly $187,000 per election depending on the length of the ballot. Training cost would increase by $26,800 per election because they are teaching a new process to the poll workers. They would need to ramp up their voter education classes in order to teach the public how the system works. This would require more skilled temporary workers to assist with the various ballot styles and sorting, counting, etc. for $25,000 per election. They would also have staff overtime of $14,000 per election. Election night report would have to be thrown out of the window and this would require a longer time to certify. In addition, they would need 2-3 security personnel in their election office at a rate of $25 per hour for 120 hours each for a total of $9,000 per election. In addition, they would need a media campaign, potentially a commercial, for a $100,000 (one-time cost).

At a time when elections are under such scrutiny, this will only further instill angst and frustration in the voters and candidates. They want to know how to explain to a candidate, you were in the lead, but once the votes were redistributed, you lost.

Officials from the **Platte County Board of Elections** indicated their voting equipment can handle ranked choice voting. They do not anticipate any cost increase.

Officials from the **Jackson County Election Board** indicated their election equipment can conduct rank choice voting (RCV). No software update would be required.

The cost associated with this petition would be solely related to voter education. RCV is complicated to understand, and the average voter will not understand the process.

They assume that if implemented the cost for voter education would be $250,000 with mailings and media buys.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the

City of Columbia, the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, St. Louis Community College,** and the **Clay County Board of Election Commissioners.**

Fiscal Note Summary

State and local governmental entities estimate no savings, one-time costs of at least $2.4 million, and ongoing costs of at least $375,000 each primary election, $311,000 each general election, and $286,000 for all other elections.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 10, 2022

RECEIVED
JAN 11 2022
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from William Bolch regarding a proposed constitutional amendment to Article III (2022-084)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by William Bolch on January 10, 2022.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County .....

Page No. .....

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and ..... County (or city of St. Louis), respectfully order that the following proposed law (or amendment to the constitution) shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the ..... day of....., ..., and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and ..... County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot title) .....

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF ..... I, ..., being first duly sworn, say (print or type names of signers)

RECEIVED
2022 JAN 10 PM 12:56

Name (signature	Date signed	Registered Voting Address (Street) (City, town or Village)	Zip Code	Congr. Dist.	Name (printed or typed)
1					
2					
3					
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22-084

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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and ..... County. FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSEINVOLVING FORGERY.

I am at least 18 years of age. I do .... do not .... (check one) expect to be paid for circulating this petition. If paid, list the payer Signature of Affiant (Person obtaining signatures) .....(Printed Name of Affiant) .....

Address of Affiant.....Subscribed and sworn to before me this ..... day of ....., A.D.....

.....

Signature of Notary

.....

Address of Notary

Notary Public (Seal)

My commission expires .....

22-084

"Be it resolved by the people of the state of Missouri that the

Constitution be amended:"

Part 1. **Each County (114) and the city of St. Louis (1)**

shall elect only one (1) representative to the General Assembly

Part 2. Repeal

(***Section 3. Election of representatives—legislative redistricting methods—house independent bipartisan citizens commission, appointment, duties, compensation—court actions, procedure.**—(a) The house of representatives shall consist of one hundred sixty-three members elected at each general election and redistricted as provided in this section.

(b) The house independent bipartisan citizens commission shall redistrict the house of representatives using the following methods, listed in order of priority:

(1) Districts shall be as nearly equal as practicable in population, and shall be drawn on the basis of one person, one vote. Districts are as nearly equal as practicable in population if no district deviates by more than one percent from the ideal population of the district, as measured by dividing the number of districts into the statewide population

data being used, except that a district may deviate by up to three percent if necessary to follow political subdivision lines consistent with subdivision (4) of this subsection;

(2) Districts shall be established in a manner so as to comply with all requirements of the United States Constitution and applicable federal laws, including, but not limited to, the Voting Rights Act of 1965 (as amended). The following principles shall take precedence over any other part of this constitution: no district shall be drawn in a manner which results in a denial or abridgment of the right of any citizen of the United States to vote on account of race or color; and no district shall be drawn such that members of any community of citizens protected by the preceding clause have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice;

(3) Subject to the requirements of subdivisions (1) and (2) of this subsection, districts shall be composed of contiguous territory as compact as may be. Areas which meet only at the points of adjoining corners are not contiguous. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries;

(4) To the extent consistent with subdivisions (1) to (3) of this subsection, communities shall be preserved. Districts shall satisfy this requirement if district lines follow political subdivision lines to the extent possible, using the following criteria, in order of priority. First, each county shall wholly contain as many districts as its population allows. Second, if a county wholly contains one or more districts, the remaining population shall be wholly joined in a single district made up of population from outside the county. If a county does not wholly contain a district, then no more than two segments of a county shall be combined with an adjoining county. Third, split counties and county segments, defined as any part of the county that is in a district not wholly within that county, shall each be as few as possible. Fourth, as few municipal lines shall be crossed as possible;

(5) Districts shall be drawn in a manner that achieves both partisan fairness and, secondarily, competitiveness, but the standards established by subdivisions (1) to (4) of this subsection shall take precedence over partisan fairness and competitiveness. "Partisan fairness" means that parties shall be able to translate their popular support into legislative representation with approximately equal efficiency. "Competitiveness" means that parties' legislative representation shall be substantially and similarly responsive to shifts in the electorate's preferences.

To this end, the average electoral performance of the two political parties receiving the most votes in the three preceding general elections for governor, for United States Senate, and for President of the United States shall be calculated. This index shall be defined as the total votes received by each party in the three preceding general elections for governor, for United States Senate, and for President of the United States, divided by the total votes cast for both parties in these elections. Using this index, the total number of wasted votes for each party, summing across all of the districts in the plan shall be calculated. "Wasted votes" are votes cast for a losing candidate or for a winning candidate in excess of the threshold needed for victory. In any redistricting plan and map of the proposed districts, the difference between the two parties' total wasted votes, divided by the total votes cast for the two parties, shall not exceed fifteen percent.

To promote competitiveness, the electoral performance index shall be used to simulate elections in which the hypothetical statewide vote shifts by one percent, two percent, three percent, four percent, and five percent in favor of each party. The vote in each individual district shall be assumed to shift by the same amount as the state-

wide vote. In each of these simulated elections, the difference between the two parties' total wasted votes, divided by the total votes cast for the two parties, shall not exceed fifteen percent.

(c) Within sixty days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a redistricting plan has been invalidated by a court of competent jurisdiction, within sixty days that such a ruling has been made, the state committee and the congressional district committees of each of the two political parties casting the highest vote for governor at the last preceding general election shall meet and the members of each committee shall nominate, by a majority vote of the elected members of the committee present, provided that a majority of the elected members is present, members of their party, residents in that district, in the case of a congressional district committee, as nominees for the house independent bipartisan citizens commission. No party shall select more than one nominee from any one state legislative district. The congressional district committees shall each submit to the governor their list of two elected nominees. The state committees shall each submit to the governor their list of five elected nominees. Within thirty days thereafter, the governor shall appoint a house independent bipartisan citizens commission consisting of one nominee from each list submitted by each congressional district committee and two nominees from each list submitted by each state committee to redistrict the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts. No person shall be appointed to both the house independent bipartisan citizens commission and the senate independent bipartisan citizens commission during the same redistricting cycle.

If any committee fails to submit a list within such time, the governor shall appoint a member of his or her own choice from the political party of the committee failing to submit a list, provided that in the case of a congressional district committee failing to submit a list, the person appointed to the commission by the governor shall reside in the congressional district of such committee.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final redistricting plan.

For the purposes of this Article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

(d) The commissioners so selected shall, on the fifteenth day, excluding Sundays and state holidays, after all members have been appointed, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

(e) Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative redistricting plan and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons. The commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map.

(f) Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

(g) After the final statement is filed, members of the house of representatives shall be elected according to such districts until a new redistricting plan is made as provided in this section, except that if the final statement is not filed within six months of the time fixed for the appointment of the commission, the commission shall stand discharged and the house of representatives shall be redistricted using the same methods and criteria as described in subsection (b) of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its redistricting plan and map with the secretary of state within ninety days of the date of the discharge of the house independent bipartisan citizens commission. The judicial commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map. Thereafter, members of the house of representatives shall be elected according to such districts until a redistricting plan is made as provided in this section.

(h) Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his or her actual and necessary expenses incurred while serving as a member of the commission.

(i) No redistricting plan shall be subject to the referendum.

(j) Any action expressly or implicitly alleging that a redistricting plan violates this Constitution, federal law, or the

United States Constitution shall be filed in the circuit court of Cole County and shall name the body that approved the challenged redistricting plan as a defendant. Only an eligible Missouri voter who sustains an individual injury by virtue of residing in a district that exhibits the alleged violation, and whose injury is remedied by a differently drawn district, shall have standing. If the court renders a judgment in which it finds that a completed redistricting plan exhibits the alleged violation, its judgment shall adjust only those districts, and only those parts of district boundaries, necessary to bring the map into compliance. The supreme court shall have exclusive appellate jurisdiction upon the filing of a notice of appeal within ten days after the judgment has become final.

Source: Const. of 1945 (Amended January 14, 1966) (Amended November 2, 1982) (Amended November 6, 2018) (Amended November 3, 2020)
*Transferred 2018; formerly Article III, § 2. No continuity with previous Article III, § 3, repealed November 2, 1982, L. 1982 SJR 39, § 1 2nd Reg. Sess.

CROSS REFERENCE: Voter qualifications, RSMo 115.133

Part 3. Supersession of prior constitutional provisions.—The constitution of 1875 and all amendments thereto except as hereinafter provided shall be superseded by this constitution.

Part 4. Effect on existing laws.—All laws in force at the time of the adoption of this constitution and consistent therewith shall remain in full force and effect until amended or repealed by the general assembly. All laws inconsistent with this constitution, unless sooner repealed or amended to conform with this constitution, shall be null and void.

" Be it enacted by the people of the state of Missouri:"

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 6, 2021

RECEIVED
DEC 0 6 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XXI (2022-083)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on December 6, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 DEC -6 AM 9:18

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-083

Be it resolved by the people of the state of Missouri that the Constitution be amended:

To prevent mandates of vaccines or ingestion of other medications.

Article XXI.

Sec. 1. Medical Rights

No vaccine or other medications may be mandated by any government, subdivision, or agency thereof or other private organization or party, unless,

(a) It has been in existence and successfully tested for at least 20 years without significant modification;
(b) It has been developed primarily by use of inactivated toxins, or whole bacteria or virus, or parts of them, and is not an RNA vaccine; and
(c) The majority of the state legislature has not at any time objected to such mandate.

Sec. 2. Medical Claims

The provider of any vaccine, which does not comport with the requirements of Sec. 1(a) and (b), which are administered in this State, shall be required for twenty years to escrow seventy-five percent of revenues for the purpose of paying medical claims. Such revenues shall be escrowed into an account established and controlled by the state legislature. Such account shall be directed by a health commission established by the state legislature to pay any health claims or compensation for injury or death associated with the vaccine, according to a schedule established by the state legislature. The payment of claims shall be ongoing during the twenty years. The balance remaining in such fund at each year-end, if any, shall be released to the provider of such vaccines on the following schedule:

1. One-tenth, after eleven years;
2. One-ninth, after twelve years;
3. One-eighth, after thirteen years, and so forth until;
4. All remaining funds, after twenty years.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-083)

Subject

Initiative petition from Austin Shaffer regarding a proposed constitutional amendment to Article XXI. (Received December 6, 2021)

Date

December 23, 2021

Description

This proposal would amend Article XXI of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in a substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact to their department.

Officials from the **Department of Economic Development** indicated they anticipate no impact as a result of the proposed amendment.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they assume an unknown fiscal impact due to the uncertainty surrounding a federal vaccination mandate.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article XXI.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for all of their department divisions.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to vaccines should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition will have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to vaccines should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article XXI will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they anticipate no costs or savings from this petition.

Officials from **Greene County** indicated there would be no immediate financial impact but there would be an impact over time in terms of increased disease morbidity in the community and the resources that they would need to mitigate the spread. Those costs are very difficult to estimate with little information on the long term impact of this petition.

Officials from the **City of Kansas City** indicated this petition would not have a fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri** indicated if the federal mandate is upheld by the courts and this measure prohibits compliance with the federal mandate, the university would lose in excess of $76 million of federal contracts. If the federal mandate is upheld as a condition of participation in Medicare and Medicaid and this measure prohibits compliance with the federal mandate, it could result in a loss of $547.4 million annually.

Officials from University of Central Missouri indicated indeterminate negative fiscal impact due to inability to prevent communicable disease outbreaks among the student body. The negative fiscal impact is due to significantly decreased revenues.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, St. Louis Community College, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University.**

Fiscal Note Summary

State governmental entities anticipate no costs or savings, but annual revenues could be reduced by an unknown amount that could be significant. Local governmental entities anticipate no savings and ongoing costs of an unknown amount.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 6, 2021

RECEIVED
DEC 0 6 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XVIII (2022-082)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on December 6, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 DEC -6 AM 9:17

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-082

Be it resolved by the people of the state of Missouri that the Constitution be amended:
To include Parental Rights as part of the state Constitution.

Article XVIII.

Sec. 1. Parental Rights

All parental rights are reserved to the parent of a minor child in this state without obstruction or interference from the state, any of its political subdivisions, any other governmental entity, or any other institution, including, but not limited to:

(a) The right to direct the education and care of his or her minor child;
(b) The right to direct the upbringing and the moral or religious training of his or her minor child;
(c) The right to apply to enroll his or her minor child in a public school or, as an alternative to public education, a private school, including a religious school, a home education program, or as authorized by law other available options;
(d) The right to access and review all school records relating to his or her minor child;
(e) The right to make health care decisions for his or her minor child, unless such decision is prohibited by law; and,
(f) The right to access and review all medical records of his or her minor child, unless prohibited by law or if the parent is the subject of an investigation of a crime committed against the minor child and a law enforcement agency or official requests that the information not be released.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-082)

Subject

Initiative petition from Austin Shaffer regarding a proposed constitutional amendment to Article XVIII of the Constitution of Missouri. (Received December 6, 2021)

Date

December 23, 2021

Description

This proposal would amend Article XVIII of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact to their department.

Officials from the **Department of Economic Development** indicated they anticipate no impact as a result of the proposed amendment.

Officials from the **Department of Elementary and Secondary Education** indicated they do not see a fiscal impact to their department, as this language essentially mirrors requirements outlined in the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g and 34 C.F.R Part 99).

They would note however, that FERPA makes it clear that the obligation to provide student records upon request to parents applies only to education agencies that are federally funded. It appears that the initiative petition applies to all education providers (public, private, parochial, homeschool).

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no anticipated cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article XVIII, but this could conflict with the Division of Labor Standards youth employment statutes under Chapter 294 and have broader implications.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for all of their department divisions.

Officials from the **Department of Social Services** indicated estimated increased costs will be $1,607,621 for fiscal year 2023, $1,773,287 for fiscal year 2024, and $1,792,089 for fiscal year 2025.

The Department of Legal Services estimates that it will require an additional 4 litigation/permanency attorneys to implement this legislation. This stems from a likely increase in the time that would be spent in defending against possible claims of Constitutional violations due to infringement of parental rights.

The Children's Division anticipates this initiative petition will result in additional time and effort to conduct child abuse/neglect investigations/family assessments. Based on the 2020 CA/N Annual Report, there were 55,853 hotline reports, which would require an estimated additional effort of 30 minutes each, resulting in 27,927 hours. That would necessitate an additional 14 Social Service Specialist full-time employees (FTEs). In addition, this initiative petition is anticipated to result in additional time and effort specific to investigations of medical and educational neglect, which based on the 2020 CA/N Annual Report is estimated to involve 283 cases, requiring 6 additional hours per year for each case, resulting in the need for an additional Social Service Specialist FTE for a grand total of 15 FTE.

Officials from the **Governor's office** indicated this proposal relating to parental authority should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition will have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to parental authority should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article XVIII will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they anticipate no costs or savings from this petition.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition proposing to amend Article XVIII.

Officials from the **City of Kansas City** indicated this petition would not have a fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri** indicated they anticipate no fiscal impact of the proposed initiative petition proposing to amend Article XVIII.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities estimate no savings and increased annual costs of at least $1.6 million. Local governmental entities estimate no costs or savings.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 6, 2021

RECEIVED
DEC 0 6 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XVII (2022-081)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on December 6, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 DEC -6 AM 9:15

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-081

Be it resolved by the people of the state of Missouri that the Constitution be amended:

To establish election integrity procedures to (a) prevent attempts to fraudulently influence the State's elections, and (b) instill confidence in Missouri's voters in the reported results of its elections.

Article XVII.

Sec. 1. Prohibited Election Conduct

(a) No voting machine may be utilized in any election to count or calculate votes. All ballots shall be paper ballots. All votes shall be counted by hand by the judgment of the human eye. All counting shall occur by two persons, one appointed by each of the two largest vote-getting parties in the previous state gubernatorial election.

(b) Any differences or uncertainties in counting by the two shall only be resolved by an individual approved and appointed in advance of the election by the state legislature.

(c) Mail in ballots shall be prohibited, except when requested by a voter in advance and after showing state-issued photo identification or a state-issued driver's license.

(d) All internet connectivity shall be discontinued at any polling place during the entire time votes are cast and counted. In addition, all persons serving in any capacity at a polling location, except observers, shall from the time of poll closing until the vote has been finally and publicly reported check in their cell phones so the counting occurs without the potential bias of any electronic sources of information of vote totals from other locations.

(e) Local law enforcement officials shall prohibit the delivery of boxes or containers of any kind at a polling place from the time the polls are first open for voting until after all votes have been counted and reported.

Sec. 2. Registration Requirements

(a) All registration to vote shall occur on or before 14 days prior to an election day. Such registration shall require the registering individual to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.

Sec. 3. Election Observer and Reporting Requirements

(a) No early voting shall be permitted more than two weeks before election day. All mail in ballots must be received two days before election day. Otherwise, they shall not be counted. Mail in balloting cannot be permitted to delay the announcement of full election totals within six hours after the poll's closing.

(b) All voters in all elections shall be required to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.

(c) All observers in a polling station shall be located within five feet of any station they desire to observe. Observers inside a polling station shall also be permitted to photograph any or all activities they desire. Private citizens outside a polling station shall be permitted to photograph
any and all activity they desire and shall be free from any liability of any kind for such photographing. All photographing shall be understood to include and allow video-taping and the recording of sound and voice.

(d) All ballots shall be counted only at and reported only from the place where the votes are cast.

(e) Under no condition shall the counting of votes be stopped between the time that a poll has closed and six hours thereafter unless completed.

(f) All votes shall be counted and reported within six hours of the time voting has closed. No votes being reported thereafter shall be valid.

(g) All vote totals shall be reported from all locations on the following basis: (1) by 11:59 p.m. of the night before the election (relating to early voting and mail in ballots); and (2) at one hour and each hour thereafter following the scheduled polling closing time; (3) a final count at six hours after the scheduled polling closing time.

Sec. 4. Legislative Election Authority

(a) The legislature of the state shall have authority in elections for president and vice president of the United States to adjust or void any vote totals it determines appropriate. It may also ignore any vote totals and exercise its right to appoint electors as specified under the United States Constitution.

(b) Any alleged violation of state election law may be remedied by a complaint filed with the state legislature, who shall promptly according to its own procedures review, receive evidence, and make a final ruling on the same.

Sec. 5. Inspection Rights

(a) All registration material, election-related computer files and data bases, and actual ballots cast shall remain available for inspection by representatives of any state party, the legislature, the courts, and any group of 1,000 or more requesting registered voters, for 120 days after the election.

Sec. 6. Election Crimes

(a) Any person (1) voting twice or more times in a single election, or (2) voting on behalf of a deceased person, or (3) voting using another person's name, or (4) voting who is not a United States citizen shall be guilty of treason against the state.

(b) Election officials denying any right to observers to an election shall be guilty of a Class III felony.

(c) Any person who resets or erases any election files or data bases, or destroys or misplaces any ballots prior to the end of the 120-day inspection period shall be guilty of a Class III felony.

(d) Any polling supervisor who fails to report partial and final results on the schedule shall be guilty of a Class III felony.

(e) Any ballot counter who intentionally, with a lack of good faith, causes ballots to be adjudicated shall be guilty of a Class III felony.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-081)

Subject

Initiative petition from Austin Shaffer regarding a proposed constitutional amendment to Article XVII of the Constitution of Missouri. (Received December 6, 2021)

Date

December 23, 2021

Description

This proposal would amend Article XVII of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact to their department.

Officials from the **Department of Economic Development** indicated they anticipate no impact as a result of the proposed amendment.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated the petition introduces one new class A felony offense and four new election offenses.

Given the seriousness of class A felony offenses and that the introduction of a completely new class A felony offense is a rare event, their department assumes the admission of one person per year to prison following the passage of the legislative proposal.

Offenders committed to prison with a class A felony as their most serious sentence who were first released sometime during fiscal years 2019, 2020 and 2021, had an average sentence length of 17.1 years and served, on average, 12.3 years in prison prior to first release. Their department assumes one third of the remaining sentence length will be served in prison as a parole return, and the rest of the sentence will be served on supervision in the community.

The sentence lengths associated with these offenses pushes the estimate of total cumulative impact on their department beyond the 10-year time frame of this fiscal note. However, the estimated impact by fiscal year (FY) 2032 is 10 additional offenders in prison.

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations										
Cumulative Populations										
Prison	1	2	3	4	5	6	7	8	9	10
Parole										
Probation										
Impact										
Prison Population	1	2	3	4	5	6	7	8	9	10
Field Population										
Population Change	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**

The four election offenses created by this proposal are defined using an offense type, Class III felony, that does not exist. If the intention is to create new class III election offenses, these would be misdemeanor offenses and outside the purview of their department. If the intention is to create new felony election offenses, these would be either class I or class II election offenses. Both class I and class II election offenses are punishable with maximum terms of imprisonment of five years. This is comparable to the maximum term of imprisonment of four years associated with a conviction for a class E felony.

For each new nonviolent class E felony, their department estimates one person will be sentenced to prison and two to probation annually. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The estimated cumulative impact of the proposal on their department is an additional eight offenders in prison and an additional 29 offenders on field supervision by FY 2026.

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	8	8	8	8	8	8	8	8	8	8
Change (After Legislation - Current Law)										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	8	8	8	8	8	8	8	8	8	8
Cumulative Populations										
Prison	4	8	8	8	8	8	8	8	8	8
Parole			4	5	5	5	5	5	5	5
Probation	8	16	24	24	24	24	24	24	24	24
Impact										
Prison Population	4	8	8	8	8	8	8	8	8	8
Field Population	8	16	28	29	29	29	29	29	29	29
Population Change	**12**	**24**	**36**	**38**	**38**	**38**	**38**	**38**	**38**	**38**

Combined Estimated Impact

The combined estimated impact of the proposal on their department is an additional 18 offenders in prison and an additional 29 offenders under supervision by FY 2032.

Change in prison admissions and probation openings with legislation

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	5	5	5	5	5	5	5	5	5	5
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	8	8	8	8	8	8	8	8	8	8
Change (After Legislation - Current Law)										
Admissions	5	5	5	5	5	5	5	5	5	5
Probations	8	8	8	8	8	8	8	8	8	8
Cumulative Populations										
Prison	5	10	11	12	13	14	15	16	17	18
Parole	0	0	4	5	5	5	5	5	5	5
Probation	8	16	24	24	24	24	24	24	24	24
Impact										
Prison Population	5	10	11	12	13	14	15	16	17	18
Field Population	8	16	28	29	29	29	29	29	29	29
Population Change	13	26	39	42	43	44	45	46	47	48

*****If this impact statement has changed from statements submitted in previous years, it could be due to an increase/decrease in the number of offenders, a change in the cost per day for institutional offenders, and/or an increase in staff salaries.

If the projected impact of legislation is less than 1,500 offenders added to or subtracted from their department's institutional caseload, the marginal cost of incarceration will be utilized. This cost of incarceration is $22.616 per day or an annual cost of $8,255 per offender and includes such costs as medical, food, and operational expense and equipment (E&E). However, if the projected impact of legislation is 1,500 or more offenders added or removed to their department's institutional caseload, the full cost of incarceration will

be used, which includes fixed costs. This cost is $88.12 per day or an annual cost of $32,162 per offender and includes personal services, all institutional E&E, medical and mental health, fringe, and miscellaneous expenses. None of these costs include construction to increase institutional capacity.

Their department's cost of probation or parole is determined by the number of Probation and Parole (P&P) Officer II positions that are needed to cover its caseload. Their department's average district caseload across the state is 51 offender cases per officer. An increase/decrease of 51 cases would result in a cost/cost avoidance equal to the salary, fringe, and equipment and expenses of one P&P Officer II. Increases/decreases smaller than 51 offender cases are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, their department will use the average caseload figure for that specific type of offender to calculate cost increases/decreases.

They also provided the following information:

FISCAL ESTIMATE WORKSHEET **Initiative Petition** **IP 22-081**

	# to/from Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)		Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 1 (10 months)	5	($8,255)	($34,396)		0	$0	($34,396)	8
Year 2 (includes 2% inflation)	10	($8,255)	($84,201)		0	$0	($84,201)	16
Year 3 (includes 2% inflation)	11	($8,255)	($94,474)		0	$0	($94,474)	28
Year 4 (includes 2% inflation)	12	($8,255)	($105,123)		0	$0	($105,123)	29
Year 5 (includes 2% inflation)	13	($8,255)	($116,161)		0	$0	($116,161)	29
Year 6 (includes 2% inflation)	14	($8,255)	($127,599)		0	$0	($127,599)	29
Year 7 (includes 2% inflation)	15	($8,255)	($139,447)		0	$0	($139,447)	29
Year 8 (includes 2% inflation)	16	($8,255)	($151,718)		0	$0	($151,718)	29
Year 9 (includes 2% inflation)	17	($8,255)	($164,425)		0	$0	($164,425)	29
Year 10 (includes 2% inflation)	18	($8,255)	($177,579)		0	$0	($177,579)	29

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition, with their assumption that the initiative petition only relates to general and primary elections.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for all of their department divisions.

Officials from the **Department of Social Services** indicated this has no fiscal impact on their department.

Officials from the **Governor's office** indicated this proposal relating to elections should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition will have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to elections should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this amendment requires that all future elections in Missouri use paper ballots only, and that all ballots be counted by hand within six hours of the polls closing. Such a requirement will necessitate increased numbers of election judges to assist in the counting process. This is a new responsibility that must be provided for under Article X, Section 21 of the Missouri Constitution.

At the November 2020 general election, at least 3,025,962 ballots were cast statewide. Their assumption is that it will require two teams of judges to process ballots at a rate of one ballot every five minutes (one team to handle and read the ballot, one team to record the votes). Based on this estimation, it would take the equivalent of 84,100 six-hour team shifts to count all ballots. Since there are two judges in each team (one from each major party), this equates to 168,200 judge-days to be paid at an average cost of $125 per election judge (previously obtained by surveying a sample of local election authorities). This process would incur a cost of up to $21,025,000 per election.

If this amendment is passed, this cost would be fully incurred at least once in fiscal year (FY) 23 (April 2023), twice in FY24 (March 2024, April 2024), and three times in FY25 (August 2024, November 2024, April 2025) for a minimum three-year cost of $94,575,000. There would also be additional partially-incurred costs to cover costs of elections outside of the normally-scheduled primary, general, and municipal elections (such as special elections or municipal elections in charter cities/counties). The exact scope of such potential expense is unknown.

Each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article XVII will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following for this initiative petition, substantially the same as 22-067:

Costs

- ~$100,000 extra per Primary Election in even years for poll workers to count in time, Section 1(a) and 3(g)
- ~$140,000 extra per General Election in even years for poll workers to count in time, Section 1(a) and 3(g)
- ~$5,000 in Sheriff OT, Section 1(e) (split evenly between primary and general, so $2,500 each)
- Total of ~$245,000 every two years in costs

Savings

- ~$40,000 per year in voting machine software maintenance, Section 1(a)
- ~$40,000 per year in voting machine capital outlay, Section 1(a)
- Total of ~$160,000 every two years in savings

Net fiscal impact of $**85,000** in extra costs every two years for the County's pro rata funding of the Election Board. Or $42,500 per year annualized.

Officials from **Greene County** indicated there is anticipated costs to their county for this initiative petition.

The **aggregate estimated costs to implement this IP in Greene County range from $586,431.25 to $1,613,210.83 for a Presidential Election**.

This aggregate estimate includes all standard election costs, including contract labor for the absentee voting period, and for voter registration, as well as an additional 25% increase in contracted labor costs due to wage inflation. The range is created by calculating the costs across five different implantation scenarios that include variable labor costs and processing speeds. The highest estimation-scenario is derived from an interpretive assumption that restricts the number of tabulating judges to two per polling location, thereby necessitating a corresponding increase in the total number of polling places required to tabulate the ballots timely (on election night).

It was also determined after thinking through the time it takes to tally a ballot manually, that it will take significantly longer than their original estimate in initiative petition (IP) 22-067, which was very similar in language. This is due to realizing that it is highly unlikely that ballot tally teams will remain proficient and accurate through the 6-hour tally process. Based on past experience in hand tallying contests for either candidates or issues, it is not uncommon for the hand tally teams to fall behind the original pace, due to natural fatigue that occurs when hand counting and/or a realization of a mistake in the tallying taking place. With that in mind this formula has accounted for that potential reality with the goal to give a better more accurate forecast of the anticipated expense for hand tabulation.

In addition, if a polling location is not able to turn off or will not turn off internet access wired or unwired, it is possible the election would need to be conducted in open space areas (such as parks, fields, parking lots etc.), since they would not have internet access. In this scenario it may be necessary to create a polling location via a large tent. Tables (15, 8'),

chairs (50), and a tent rental cost would range from $612 to approximately $3,000 per location that would need this accommodation. It is unknown the total number of locations that would need this relocation accommodation, but it is an option that may likely be necessary to pursue. Since this is a true unknown, this cost has not been factored in to the estimate.

- **Table, Chair, and Tent Cost Estimate Resource:**
  https://www.fundwaysofmissouri.com/rentals-n-services#TablesandChairs

The total *increase* in costs to implement this IP in Greene County range from $184,304.05 – $1,277,328.64, depending on which of the above referenced scenarios comes to fruition.

Please find below a summary of the range of estimated cost changes, by category:

Cost Change by Category			
	Low End	*to*	**High End**
Poll Worker Pay	65,536.00	*to*	368,690.00
Hand Tabulation	87,821.03	*to*	285,504.00
Voter Registration Costs	7,076.20	*to*	7,076.20
Law Enforcement Costs	40,500.00	*to*	287,500.00
Elec Night/Testing Teams	(3,099.77)	*to*	8,480.23
Contract Labor	6,817.36	*to*	6,817.36
DS200	(7,224.78)	*to*	(7,224.78)
ExpressVote	-	*to*	-
Phones	4,577.82	*to*	35,433.03
Other Election Expenses	-	*to*	-
Postage	-	*to*	-
Clerk Staff Salary	-	*to*	-
Central Supplies - County	-	*to*	-
Elec Service Ballot Supplies	-	*to*	-
Polling Place Supplies	-	*to*	80,653.02
Machine Rental	(35,535.44)	*to*	(35,535.44)
Poll Pad Rental	-	*to*	119,407.50
Polling Place Rent	3,199.00	*to*	54,299.00
Delivery of Supplies	-	*to*	2,683.64
Legal Notices	-	*to*	-
Custodial Overtime	-	*to*	-
Subtotals	169,667.42	*to*	1,213,783.76
5% Admin Fee	14,636.63	*to*	63,544.88
		to	
Total Increased Cost of Election	**184,304.05**	***to***	**1,277,328.64**

Officials from the **City of Kansas City** indicated this petition would have a negative fiscal impact on their city in an indeterminate amount because the election authorities would pass the costs of the hand counting on to the city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **St. Louis County Board of Elections** indicated their impact response is the following:

- **$9.375 million** – To hire Election Day Counters to count Election Day ballots at each polling place
- **$1.875 million** – To train Election Day Counters (One hour of training)
- **$555,000** – To hire workers to count absentee ballots
- **$194,300** – To hire security/officers for Election Day security
- **$300,000** – To hire additional poll workers because electronic poll books cannot be used

Total Estimated Cost Per Election: **$12,299,300**

Officials from the **Board of Election Commissioners City of St. Louis** indicated:

This petition requires:

1. Bipartisan teams are to count all ballots by hand and human eye;
2. Ballots will be counted, tabulated and reported at the place where the ballots are cast; and
3. All ballots are to be counted and reported within six hours of the polling places closing.

In November of 2020, at the General Election, a total of 134,886 votes were cast. A team at the St. Louis City Election Board simulated the experience of a bi-partisan team counting a ballot; in an ideal environment, it took the team 140 seconds to count and verify each race on the ballot. Therefore to count all ballots last November it would have taken 18,884,040 seconds, or 314,734 minutes, or 5,246 hours, which divided by six (the hours allocated by the petition for counting) means they would need at a minimum 874 teams counting feverishly and perfectly, like machines, if you will, to even come close to accomplishing this task. 874 teams translates to 1,748 people. Paying 1,748 people $15/hour for six hours of work requires an expense of $157,320. In reality, however, given no shows, the need for teams of judges to address voter intent on poorly marked ballots, you would need double the amount of people, therefore 3,496 people for a total of $314,640.

This is the cost of labor alone. The impact on the ability to use many of the 99 polling places they currently use is almost impossible to determine; i.e., whether many of these places would be willing to participate in this endeavor, whether they have the space to house the number of teams necessary to count, etc.

Officials from the **Platte County Board of Elections** indicated this proposal is blatantly undemocratic, and places technical restrictions under which it becomes impossible to provide election results in the time permitted. It is unserious.

Allowing the legislature to "adjust or void vote totals" at their discretion removes any incentive for citizen participation and delegitimizes any election outcomes. This combined with the intimidation and harassment of voters that would be allowed by observers will decrease election participation.

Attempting to satisfy the technical requirements of having all races on all ballots counted and adjudicated by people within 6 hours of polls closing would add more than $100,000 to the cost of each election.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College,** the **Kansas City Board of Election Commissioners,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Fiscal Note Summary

State and local governments estimate ongoing costs of at least $24 million per election, but the total cost is unknown. Local governments estimate savings of at least $80,000 annually and at least $42,000 for each general election in a presidential election year. State governmental entities estimate no savings.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 6, 2021

RECEIVED
DEC 0 6 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XVI (2022-080)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on December 6, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 DEC -6 AM 9:15

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-080

Be it resolved by the people of the state of Missouri that the Constitution be amended:

To emphasize the Separation of Powers between the Federal and State government, by (a) clarifying the Federal Government duty to uphold the rights of Missouri's citizens under the U.S. Constitution, including the Bill of Rights and all other provisions, (b) identifying breaches by the Federal Government, and (c) affirming the State's right to assess the severity and consequences of such breaches.

Article XVI.

Sec. 1. Duty of Federal Government of the United States to Uphold the Bill of Rights and Constitution

(1) Missouri hereby clarifies its admission as a State into the United States of America. Such application by Missouri and admission by the Federal Government are, in essence, a governmental compact between the two whereby both parties undertake to fulfill their respective duties.

(2) The Supremacy Clause of the Constitution of the United States and application of the doctrine set forth in Marbury v. Madison together are not designed to give the Federal Government a "blank check" in this governmental compact. Accordingly, the Federal Government is obligated to uphold its end of the bargain, or else find itself in breach.

(3) Some breaches of Federal Government duty may be material, and some may be immaterial.

(4) All breaches of the Federal Government to uphold each of the provisions of the Bill of Rights, including the Tenth Amendment, of the Constitution of the United States is a material breach.

(5) Failure of the Federal Government to allow states to propose Constitutional amendments under Article V of the Constitution of the United States of America is also a material breach.

(6) Missouri reserves the right to address breaches, both material and immaterial, as it may determine proper, following good faith efforts to reconcile such breaches and allowing the Federal Government a period in which it can remedy its breach of contract.

Sec 2. Federal Breaches

The following actions by the United States of America constitute breaches of the Constitutional compact it has with the State:

(a) The excessive use of executive orders by the President of the United States of America, except in the case of live military conflict, circumventing the representative legislative process;

(b) The excessive and reckless incurrence of debt, except in the case of anticipated or

live military conflict;

(c) Failure to effectively protect the borders of the country from unauthorized entry or invasion;

(d) Failure by the Justice Department and Supreme Court of the United States of America to (i) equally enforce the rule of law, (ii) imbue citizens with confidence that the results of national elections are free and fair, and (iii) provide prompt enforcement of criminal laws without endless delays due to investigations often times resulting in no meaningful enforcement action;

(e) Failure by the Federal Government to protect the right of Missouri under the Tenth Amendment to the Constitution of the United States of America to exercise powers not specifically given to the Federal Government, including the power to protect life and protect marriage as Missouri determines best;

(f) Dramatically curtailing freedom of speech of all kinds, in both the public and private arena;

(g) Increasingly curtailing freedom of worship by failing to apply only the least restrictive means of governmental limitation to serve a compelling governmental interest;

(h) Congress effectively ignoring the right of States to propose amendments to the Constitution of the United States of America under Article V; and,

(i) In the name of protection, creating and deploying espionage tools stripping Americans of their sense of privacy of thought, speech, and action, and in their use of electronic tools of all kinds.

Sec 3. Significance of such Breaches

The severity of such breaches, and which, if any of them, are immaterial, and the consequences thereof is for Missouri to assess and decide.

One such possible remedy for breaches, hereby approved by the voters of this State, is for the State to retain its status as a state of the United States of America but also apply as a lawful "separate administrative region" of the state of Texas as the legislature and governor of this State may lawfully determine best, consistent with the Constitution of the United States as applicable at the time of such application.

Sec 4. Superseding US Constitutional Provisions

The provisions of this Article shall not be applicable to the extent superseded by then existing and applicable provisions of the United States Constitution, but shall otherwise be of full force and effect.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-080)

Subject

Initiative petition from Austin Shaffer regarding a proposed constitutional amendment to Article XVI of the Constitution of Missouri. (Received December 6, 2021)

Date

December 23, 2021

Description

This proposal would amend Article XVI of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact to their department.

Officials from the **Department of Economic Development** indicated they anticipate no impact as a result of the proposed amendment.

Officials from the **Department of Elementary and Secondary Education** indicated no fiscal impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated lost federal funding is estimated at up to $1,946,592,434 for fiscal year 2023, up to $1,966,058,358 fiscal year 2024, and up to $1,985,718,942 for fiscal year 2025.

A substantial negative effect on small business could result through the Department of Health and Senior Services (DHSS) not having the ability to engage in the standard contracting required to provide federally-funded public health services for Missourians. Examples of these contract include, list is not all-inclusive:

- Child and Adult Care Food Program (CACFP)
- Area Agency on Aging (AAA)
- Home and Community Based Services (HCBS)

DHSS is significantly funded by federal funds that are awarded through the financial assistance (grants) process. The General Assembly (GA) provides the authority to spend federal funds through appropriations. Federal grants are generally awarded with specific federal regulations attached to them. If the GA were not to adopt a rule or regulation authorizing the federal regulation attached to a grant program the federal agency(s) may decline to award the grant or the department may have to forfeit the grant monies. The resulting potential loss of DHSS federal grant awards could be substantial, impacting the health of all Missourians.

For example, any reduction in federal funding jeopardizes their department's capacity to:

- Protect Missouri's citizens from receiving substandard care by regulated providers;
- Provide WIC services;

- Perform chemical and microbiological food and water testing at the State Public Health Laboratory;
- Provide services to prevent premature institutionalization of Missouri's elderly and adults with disabilities;
- Perform food safety inspections); or,
- Perform hospital, long-term care facility and child care safety inspections.

Their department assumes the potential loss of funds could include all of its current federal funds. The most recent budget year (fiscal year 2022) includes approximately $1,927,319,242 and 962.11 FTE in federal funds, projected to be $1,946,592,434 for fiscal year 2023. The state may also have to replace lost federal funding with general revenue to continue some vital services for its citizens that are supported, in part or in total, by federal funds.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no anticipated cost or savings to their department.

Officials from the **Department of Mental Health** indicated they (DMH) assume an overall unknown fiscal impact based on the following concerns regarding the language contained in this initiative petition.

The initiative petition may have an unknown effect on their department's budget from both state and federal sources and make legal compliance difficult for DMH operations across their department. Their department operates (fiscal year 2022 budget) with federal funds received from various federal agencies totaling approximately $1.5 billion. Failure to comply could jeopardize funding with the potential impact being between $0 and up to $1.5 billion.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated it is unknown what mandates or executive orders that the state may not comply with so the actual impact is unknown. There could be a fiscal impact if there are monetary stipulations within the mandates or orders. It is also unclear how Section 3 "separate administrative region of the state of Texas" will impact their department if it effects federal funds.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article XVI.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for all of their department divisions.

Officials from the **Department of Social Services** indicated lost federal funding is estimated at up to $7,153,702,729 for fiscal year 2023, up to $7,153,702,729 fiscal year 2024, and up to $7,153,702,729 for fiscal year 2025.

This initiative petition amends the Missouri Constitution by adding Article XVI to emphasize the Separation of Power between the Federal and State government.

Article XVI

Section 1. -- Duty of Federal Government of the United State to Uphold the Bill of Rights and the U.S. Constitution. Missouri reserves the right to address breaches, both material and immaterial, as it may determine proper, following good faith efforts to reconcile such breaches and allowing the Federal Government a period in which it can remedy its breach.

Section 2. – Identifying breaches by the Federal Government. Lists nine breaches.

Section 3. – Significance of such Breaches. Affirming the State's right to assess the severity and consequences of such breaches. One such remedy for breaches, approved by the voters of this State, is for the State to retain its status as a state of the United States of American but also apply as a lawful "separate administrative region".

Section 4. – The provision of this Article shall not be applicable to the extent superseded by then existing and applicable provision of the United States Constitution.

If the state were to choose to become a "separate administrative region", their department anticipates a loss of federal funding. Appropriated federal funding for fiscal year 2022 is over $7 billion.

Officials from the **Governor's office** indicated this proposal relating to potential Missouri remedies to federal overreach, including becoming a separate administrative region of Texas, should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition will have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to potential Missouri remedies to federal overreach, including becoming a separate administrative region of Texas, should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article XVI will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they anticipate no costs or savings from this petition.

Officials from **Greene County** indicated there may be cost to their county if voters vote to amend Article XVI with the proposed language in this initiative petition.

It is unknown whether the act to change the state constitution to affirm that Missouri is an "administrative region" separate from the federal government will lead to a potential federal government action to withhold federal funding from Greene County. And, Congress may choose to address such structural changes by law or appropriation, but said Congressional actions are almost impossible to predict. Regardless, they believe it is prudent to anticipate that the passage of this IP may lead to changes to federal funding.

If the passage of this act did change how the State of Missouri is recognized by the United States Government, then it could impact the federal funding that passes through the state to each county. With respect to Greene County, this may constitute a reduction of up to an average of $3.8 million a year in federal funding.

Schedule of Expenditures of Federal Awards (SEFA) Federal Funds by Year

2005	4,861,230
2006	3,804,280
2007	11,126,685
2008	3,449,841
2009	4,491,565
2010	4,622,335
2011	4,761,512
2012	5,455,036
2013	2,756,343
2014	2,588,470
2015	5,188,450
2016	3,700,688
2017	2,690,369
2018	2,787,614
2019	1,750,943
2020	36,339,759 without CARES the amount would have been 1,806,820

averages about $3.8 million without the ice storm or the pandemic

The SEFA information was used to quantify the average for total federal funds received by the County of Greene for the past 16 years. Please note that the average does not include any CARES Act funding in 2020 or ice storm funding as part of the 16 year average.

Officials from the **City of Kansas City** indicated this petition would not have a fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri** indicated if this proposal were to be construed to prohibit the University's compliance with federal laws and regulations, it could result in

fines, penalties, or loss of federal funding in amounts in excess of $1 million depending on the specific federal program.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities estimate annual reduced federal funding could be at least $10.6 billion, but the total potential reduction is unknown. Local governmental entities estimate annual reduced federal funding passed through from the state could be at least $3.8 million.

22-079

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 23, 2021

RECEIVED
NOV 23 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Michael Phoenix regarding a proposed constitutional amendment to Article XV (2022-079)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Michael Phoenix on November 23, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 NOV 23 AM 8:36

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street)(City, Town or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
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7.					
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10.					
11.					
12.					
13.					
14.					
15.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis).

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ☐ do not ☐ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

_____ Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 20___.

_____ Signature of Notary

Notary Public (Seal)

_____ Address of Notary

My commission expires _____

Be it resolved by the people of the State of Missouri that the constitution be amended:

ARTICLE XV
MEDICAL LIBERTY

SECTION

1. Definitions.
2. Individual Self-determination and Consent for Medical Interventions.
3. Limitations on Governing Bodies Mandating Medical Interventions.
4. Data Transparency For Determining Policies Regarding Contagions of Threat.
5. Domestic Entity Medical Neutrality Regarding Employees and Contractors.
6. Foreign Entity Medical Neutrality Regarding Employees and Contractors.
7. Nullification of Federal Medical Mandates.
8. Financial Accountability for Infringing an Individual's Medical Rights.
9. Transparency in Lobbying for Medical Initiatives and Funds.
10. Integrity and Transparency in Publicly Funded Medical Initiatives.
11. Due Process for Medical Liberty.

Section 1. Definitions.

(1) "Sovereign autonomous obligation" means the highest and most absolute legal form of authoritative power existing as a duty inherent in the individual that cannot be delegated to any degree.
(2) "Individual" means pertaining to, belonging to, or characteristic of, one single person, either in distinction from a firm, association, corporation, organization, or other such entity.
(3) "Contravene" means to act contrary to an axiom inherent to an individual's personhood such that a given contravention would act as a violation of an individual's right, obligation, or other such legal postulate.
(4) "People of a given region" means a collection of individuals of a given geographic context, whether as a formally defined entity such as a city, town or other such entity; or as defined by a colloquial preference in description such as "the midwest" or other such description.
(5) "People at large" means the collection of individuals that act as the general population.
(6) "Contagion" means a disease of any type that can be passed from one person or animal to another, by any type of mechanism that would facilitate transference through a population.
(7) "Concerned institution" means any type of entity formed as a fictitious agent, whether public, private, or governmental, that does not have distinct and individual personhood; and is involved in the process of overseeing, regulating, informing, or has any input into influencing the decisions of an individual to any degree.
(8) "Public entity" means any and all governmental agencies, organizations, committees, tribunals, or other such entities that are either formed by a formal constitution or as a derivative entity or bureaucratic agency of the governing body that has emerged from a constitution's binding legal authority on that governing body.
(9) "Injunctive counter-measures" means any type of formal policy, whether as law, regulation, or other such official declaration that has influence on the conduct of individuals or their private business matters, that is intended to inhibit a contagious threat on public health.
(10) "Threshold of data quality" means a clearly prescribed set of metrics that acts to remove any and all bias or ambiguity or both from a given set of data, to the fullest extent possible.
(11) "Reasonable speculation of doubt" means doubt, or a claim of skeptical foundation, arising from the preponderance of evidence to suggest that alternate opinions have validity based on the soundness of reason derived from the analytical capabilities to ingest and analyze data for the purpose of arriving at a

more clear supposition on the matters of discourse concerning the policy justifications pertaining to the public, and/or specific individuals.
(12) "Attribute" means any feature regarded as an identifiable characteristic of a contagion, or its impact on an individual(s), or any component related to a contagion or its impact.
(13) "Data profiling" means any process used to identify attributes of a given scenario or problem domain, or process used to aggregate any and all attributes, or process used to analyze any attribute or aggregate of attributes in any way for any reason.
(14) "Neutral and objective verification" means a process whereby all bias, rhetoric, propaganda, and any type of subjective and/or anecdotal influence is removed from all data profiling or auditing activities to the fullest extent possible.
(15) "Data quality and integrity" means a state of data possessing the characteristics of having removed all forms of incongruence in both the technical soundness of the data's ability to be used in a prescribed technique of analysis, as well as having relevance to the fullest possible scope of considerations necessary to adequately frame a given scenario with all contributing factors or attributes.
(16) "Policy justifications" means any underlying supposition proposed as having relevance as to why a given policy is necessary to implement as a given law, regulation, or other such decree of legal authority.
(17) "Unambiguous access" means possessing the ability to have an unobstructed view of any and all details that have influence in the process of informing policy justifications to any degree.
(18) "Limitation on visibility" means any type of obstruction that would hinder the view of all the necessary details in a given context of facts.
(19) "Contributing factors" means any and all factors that influence the result or outcome of a given scenario, situation, condition, or other such context.
(20) "Freely available" means available without the requirement of paying a fee of any type, or placing any type of hindrance on an individual's ability to review the details of a given scenario, situation, condition, resolution, or other such context.
(21) "Sufficiently ambiguous" means existing in such a way wherein the details are removed such that there is no discernable ability to identify the person or patient of a given report that is used as a data point in any type of analysis.
(22) "In full-effect" means to an extent that there is no severability in any legislation, regulation, or formal policy of any type that is decreed, mandated, or implemented to any degree, such that the entirety of a given formal policy is regressed from having any legal effect at all.
(23) "Court of civil consequence" means a court of competent jurisprudence that is not of criminal consequence in its findings or procedures.
(24) "No justifiable cause" means no justifiable reason that would suffice for an entity to act in such a way that would lead to the result of inhibiting an individual to any degree from the given set of rights and privileges in a given context.
(25) "Reciprocity of effect" means a recapturing of any type of measurable benefit that was lost due to an entity's actions that have disrupted an individual's personal rights or private business interests.
(26) "Publicly funded financial instrument" means any type of financial instrument, whether as an instrument of debt, credit, grant, cash, subsidy, or any type instrument previously existing or that shall exist in the future, that is tied to a publicly oriented financial account to any degree; wherein elected officials, or public officials or agents of an administrative bureaucracy, act as a controller of distributing a given financial instrument or set of financial instruments.
(27) "Publicly constituted entity" means any type of public entity in the State that exists as any type of electorally founded governing body; or as a derivative agency, office, or any other form of bureaucratic organization that gains its authority from any type of electorally founded governing body.
(28) "Document of scope" means the documentation through which any type of medical initiative will be documented with sufficient and unambiguous detail; wherein the details of the document are required to articulate and describe with as much detail as necessary to justify any subsequent transaction that

would come to be if the initiative is authorized with funding.
(29) "Medically related initiatives" means any type of action taken by an entity of any type that is in any way related to any type of medical context; whether as research, as information gathering, as promulgating guidance on any public health issue, as providing any type of treatment, therapy, or intervention; or as any type of activity of any medical relevance.
(30) "Premise of analysis" means the basis for which any subsequent audit or report on whether or not an initiative met the pre-defined success criteria, or if the initiative breached the predefined scope of activity to any degree.
(31) "Benefit of ambiguous result" means a benefit not prescribed with sufficient detail to engender a predictable and data driven outcome; such that the defined benefit is lacking any and all foreseeable or otherwise reasonably ascertainable attributes, variables, contributing factors, or other such characteristics in the documentation, and is otherwise possessed with bias or ambiguity in the defined goals of an initiative that would lead to unpredictable results, or is otherwise misleading to any degree.
(32) "Credibility of benefit" means a scope of activity that is able to fully describe, in sufficient detail, both the measurable benefits intended to enhance the lives of individuals existing in the State, as well as any and all identifiable risks an initiative would pose on individuals; such that an initiative's scope has met a quantifiable threshold in fully articulating and describing the justifications of an initiative's goal as it pertains to enabling individuals freely consenting to a given benefit.
(33) "Normalized data report" means a report using a describable relational algebra to remove any and all redundancies wherein a formalized structure of data integrity enables a reasonable understanding of the details of a given set of data, while allowing for visibility to any and all details necessary to ensure full visibility to any and all relevant attributes in the data.
(34) "Full unambiguous audit" means a review of all details necessary to ensure full transparency of all relevant attributes, elements, details, or other such characteristics.
(35) "Full transparency of process" means all details of every conversation, hearing, procedure, motion, or other such movement a court makes in the process of acting in accord with a legal process to bring about any type of resolution must be documented and made freely available to any requesting entity or individual.
(36) "Entity at odds" means any type of entity, public or private, other than an individual, that acts in any way contrary to an individual's, or collection of individual's, medical freedoms, rights, obligations, or other such axioms of an individual's personhood.
(37) "Immediate due process" means all reasonable effort, in an urgency of action, to ensure that a full review of any lower court's decision is sound, reasonable, and valid as it pertains to the relevant provisions of the claim.
(38) "Likelihood of contravention" means any anomaly in a fact pattern analysis that induces further questions for which answers either confirm the claim, or become increasingly more difficult to ascertain the answers, or the answers themselves induce further questions.

Section 2. Individual Self-determination and Consent for Medical Interventions.

(1) The right and sovereign autonomous obligation of an individual to self-determine the need for any and all medical interventions, treatments, or other such manner of physical, mental, or emotional therapies or procedures shall not be contravened to any degree by the presence of any manner of condition in the individual, the people of a given region, or the people at large; nor shall it be contravened to any degree by the existence of any type of contagion anywhere on this planet or elsewhere.

(2) All manner of consent shall remain solely with the individual without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior forms of constraint or coercion. The individual's right to have sufficient knowledge of all knowable effects of any type of medical intervention, treatment, or aforementioned therapy; as well as comprehension of the elements of the

subject matter involved, to enable the individual's ability to have sufficient consideration and understanding, and thereby make a fully informed decision, shall be enabled, without delay, by any and all concerned institutions to the fullest extent possible with any and all information available.

Section 3. Limitations on Governing Bodies Mandating Medical Interventions.

(1) No cause shall exist by the State, it's Counties, Municipalities, or other such public entity therein to mandate, compel, or otherwise enforce any type of medical intervention or therapy on an individual, or group of individuals, for any reason; or to require, to any degree, an individual to make known any degree of medical history of the individual.

(2) Where any such aforementioned action is taken by a public entity, an individual shall have immediate cause to move a court of competent jurisdiction to adjudicate such contravention.

Section 4. Data Transparency For Determining Policies Regarding Contagions of Threat.

(1) Wherein there exists an increased risk of a contagion, of any type, in an individual, the people of given region, or in the people at large; any and all legislative, regulatory, or other such injunctive counter-measures or policies enacted with the intention to limit or cease the spread of the contagion, or that would otherwise impose limitations of any type on individuals or organizations, must be informed by, and justified with, a threshold of data quality exceeding a reasonable speculation of doubt in any and all data gathering and analysis initiatives that are used to identify any and all contagions, thresholds of infection, vectors of infection, or other such attribute ascertained by any manner of data profiling performed on any aspect of the contagion, its impact or potential impact on an individual, the impact on people of a given region, or the impact on the public at large.

(2) (a) As neutral and objective verification of the data and data processes used to determine a contagion's potency or lack thereof, its infection rates, or any other attribute of a contagion or its impact thereof, that is analyzed to any degree for the purpose of, or is otherwise used in, informing or justifying any type of public policy, legislation, or regulation; all the aforementioned aspects of data quality, profiling, gathering, and analysis must be submitted, by the State, it's Counties, Municipalities, or other such public entity therein, for audit to multiple independent organizations, public or private, with expertise in assessing data quality and integrity. Furthermore, any entity or individual with sufficiently describable processes to engender adequate knowledge and expertise to audit and review, who would volunteer to audit must be enabled to do so to the fullest extent possible with any and all aspects of the aforementioned components of analysis.

(b) The independent organizations selected by the State, it's Counties, Municipalities, or other such public entity therein, for the verification process, shall have no financial ties or incentives to any degree, or of any type, to any other organization or entity that is pursuing any type of remedy or treatment for the contagion, or is otherwise funding such initiative; such that the selected auditing organization is otherwise without any degree of conflict-of-interest.

(3) (a) Any and all data points and processes used to inform or justify any legislation, regulation, or other such policies of any type, must undergo an audit of all reporting processes and measures; with unambiguous visibility to any and all data sets used, data repositories accessed, data routines developed, or data models and algorithms designed and built in effort to analyze and inform any and all public policy. No manner of proprietary trade secret or other such intellectual property right shall suffice to inhibit full and unambiguous access to the necessary elements that would be the subject of the aforementioned auditing process.

(b) Additionally, any and all elements, components, attributes, or processes subject to audit are required to be made freely available to the public without any type of redaction or limitation on visibility to every aspect used in performing any and all data profiling measures used to inform or justify any type of public policy. Any and all report submissions used as data points in the analyses described above, that

would inform public policy, must also include full legal identification of the reporting individual and organization, including the date, time, and location the report was submitted; as well as include any and all pre-existing medical conditions of any of the individuals that were the subject of a report. All medical records used in any report submission or reporting process, describing any and all pre-existing medical conditions, must be sufficiently ambiguous only to the extent necessary to preserve an individual's unequivocal right to personal privacy; while allowing for a full analysis of all attributes that act as contributing factors in the rates of infection, spread of the contagion, or any other related or relevant attribute of any aspect of the contagion's threshold of threat to public health.

(4) Any aspect of any of the aforementioned data profiling measures that are found to have any degree of invalidity, ambiguity, or are otherwise inconsistent or incongruent with a threshold of data quality exceeding a reasonable speculation of doubt would thereby immediately nullify, in full-effect, any and all legislative, regulatory, or other such injunctive counter-measures enacted to limit or cease the spread of the contagion.

Section 5. Domestic Entity Medical Neutrality Regarding Employees and Contractors.

A domestic entity, of any type, public or private, established or certified in the State to any degree, shall have no justifiable cause to mandate, compel, or otherwise enforce any type of medical intervention or procedure on an individual, or group of individuals, employed or otherwise contracted in any way in the State; or to require an individual to make known any degree of medical history of the individual; as condition of employment or consideration in contract. Where any such aforementioned action is taken by an entity, an individual shall have immediate cause to move a court of civil consequence to adjudicate such contravention with a reciprocity of effect for any damages deemed reasonable by a court of competent jurisdiction.

Section 6. Foreign Entity Medical Neutrality Regarding Employees and Contractors.

A foreign entity, of any type, public or private, operating in the State to any capacity, shall have no justifiable cause to mandate, compel, or otherwise enforce any type of medical intervention or procedure on an individual, or group of individuals, employed or otherwise contracted in any way in the State; or to require an individual to make known any degree of medical history of the individual; as condition of employment or consideration in contract. Where any such aforementioned action is taken by an entity, an individual shall have immediate cause to move a court of civil consequence to adjudicate such contravention with a reciprocity of effect for any damages deemed reasonable by a court of competent jurisdiction.

Section 7. Nullification of Federal Medical Mandates.

Any Federal legislation, regulation, order, or other such manner of injunctive decree that would be found to infringe the liberties, freedoms, rights, obligations, or privileges outlined herein this amendment shall give immediate cause and requirement to the State, it's Counties, Municipalities, or other such public entity therein; to make null and void such injunctive decree, order, regulation, or legislation.

Section 8. Financial Accountability for Infringing an Individual's Medical Rights.

(1) Any public entity, of any type, enumerated herein the entirety of this amendment that would be found to contravene, infringe, or transgress, to any degree, any and all liberties, freedoms, rights, obligations, or privileges of an individual, are liable for, and shall provide, all court costs, lawyer fees, or any manner of fee allocated to the individual for any type of legal proceeding or action taken by the individual to move a court to adjudicate, arbitrate, or bring to resolution in any way, the contravention of said liberties, freedoms, rights, obligations, or privileges of the individual.

(2) Any and all damages of any type that would be available therefrom any contravention, infringement, or transgression may only be sought by the individual person. No entity, of any type, may seek damages from or against an individual; nor shall an entity hold an individual liable in any way whatsoever.

Section 9. Transparency in Lobbying for Medical Initiatives and Funds.

Any entity in the State, of any type, domestic or foreign, whether organizational, governmental, or as an individual operating in one's own capacity, that has any type of interaction with a public official of any type, wherein the interaction has any type of discussion or communication of requiring, mandating, or otherwise enforcing any type of medical intervention, policy, or other such legislative or regulatory measure, decree, or mandate; or discusses or communicates any type of medical initiative of any type that requires or requests any degree of financial grant, loan, subsidy, or other such publicly funded financial instrument; must submit full transcript of the discussion or communications in the interaction, without redaction, to the State's Department of Health, and all other such agencies regulating or overseeing, to any degree, the medical governance in the State, it's Counties, Municipalities or other such publicly constituted entity therein. The transcripts shall be made freely available to the public to access the information, in either paper or digitally accessible and downloadable format, as well as be accessible without any type of redaction or limitation on visibility to the details of the transcripts of the discussion or communications.

Section 10. Integrity and Transparency in Publicly Funded Medical Initiatives.

(1) (a) Public entities, of any type, within the State that provides any amount of funding to any type of organization, agency, committee, individual, or entity, public or private; wherein the funds are used, to any degree, for medically related initiatives of any type, public or private, must require from the receiving entity or individual, a report detailing the full budgetary allocations of how the funds are intended to be used, along with a detailed set of goals or objectives that are intended to be the result of the initiative, prior to receiving the funds. The report shall act as the document of scope in determining both the credibility of the initiative's benefit to the people of the State, and the premise of analysis for any subsequent audit on usage of the funds. Where there exists no discernible benefit, or a benefit of ambiguous result there exists no credibility of benefit to the people. Any initiative that does not possess sufficient credibility of benefit shall not be provided funding to any degree.

(b) Entities that pass authorization and validation for sufficient credibility of benefit must submit a quarterly normalized data report with line item details of every transaction; consisting of the amount of the transaction, the date of the transaction, the identity of who the funds were remitted to, and any other detail required for full unambiguous audit of every transaction for which the funding was used. To the fullest extent possible, the transactional detail must comply with ISO 20022 standards for electronic data interchange between financial institutions.

(2) (a) The aforementioned Document of Scope, and the transaction details subjected to the aforementioned audit are required to be submitted to the State's Department of Health, and all other such public or private entities regulating or overseeing, to any degree, the medical governance in the State, its Counties, Municipalities, or other such publicly constituted entity therein; and made freely available to the public to access the information, in either paper or digitally accessible and downloadable format, as well as be accessible without any type of redaction or limitation on visibility to the details of the transactions.

(b) The receiving entity must also submit semi-annual internal performance reviews of the initiative, detailing the success factors, key performance indicators, and any other identifiable measure used to gauge the success, or not, of the initiative's result as it pertains to the benefit to the people of the State, its Counties, Municipalities, or other such publicly constituted entity therein.

(3) Any transactions that would be found to fall outside the scope of the intended budgeted allocations are subject to remuneration of the funds back to the public entity that provided the funds.

Section 11. Due Process for Medical Liberty.

(1) (a) If any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged as invalid by a court of competent jurisdiction, all other provisions shall continue to be in full effect.

(b) For any clause, sentence, paragraph or section of this amendment, or an application thereof that is found to be invalid, in any way or to any degree, by a court of competent jurisdiction, a court of higher authority in the State shall review, with immediate due process, the decision of the lower court.

(c) In all reviews for validity of either any clause, sentence, paragraph, or section; or a court's ruling on any provision herein this amendment, deference shall be given toward a strict construction of interpretation. The strictness shall be founded exclusively on all of the the following three factors: (1) limiting and curtailing, to the greatest reasonable extent possible, the overreach of any public or private entity on the lives of individuals, (2) to preserve and uphold as sacrosanct the rights and liberties of individuals to the greatest extent possible, and (3) to create a transparent and unambiguous review of all details pertaining to the subject matter of any provision herein such that it can be accessed freely by the people of the State. Where a court has ruled on the validity of a provision, and the analysis has not considered these three factors, the ruling itself shall be deemed as invalid.

(2) (a) Where an individual or group of individuals moves a court to adjudicate a matter founded in the provisions of this amendment, full transparency of process shall be held as sacrosanct for all proceedings; except where the individual(s) in question are under the age of 18, in which case all due diligence to protect the individual's identity, and only the individual's identity, must be taken.

(b) If arbitration, mediation, or any mechanism other than full legal due process is sought as a means of resolution for any matter related to the provisions of this amendment, no limitations will be placed on visibility to the public of both the identity of the entity at odds with the individual(s), and all the details of the complaint. The individual(s) may elect to keep their own identities confidential, in which case the individual(s) right to privacy shall stand as sacrosanct and be struck from all public record.

(3) The final resolution of any type of proceeding, whether as a result of full due process or as another type of resolution, shall be made freely available without limitation on access at both the office of the State's Attorney General, as well as the office of the court of competent jurisdiction to which the original complaint was made, in either paper or digitally accessible and downloadable format.

(4) (a) The office of the State's Attorney General shall make publicly available to all county courthouses, within 60 days of the adoption of this amendment, a form template by which an individual can move a court of competent jurisdiction in the State, its Counties, Municipalities, or other such publicly constituted entity therein. The form shall only require for acceptance of a court of competent jurisdiction, the full legal name of the individual making the complaint, the name of the entity or entities at odds with the individual, and a description of no less than 200 words detailing the facts, including the specific section or subsection of this amendment that applies to the facts. If the specific section or subsection of this amendment that is applicable to the facts of the complaint is not enumerated in the description of the complaint, the court of competent jurisdiction may elect to immediately reject the complaint citing to the individual in common and understandable terms the specific reason for the rejection.

(b) If the court of competent jurisdiction, or the State's Attorney General finds that multiple complaints have been made by multiple individuals against the same entity at odds, enumerating the same section or subsection of this amendment, the court or the State's Attorney General may elect to combine the complaints into a single proceeding as necessary to expedite the due process. If an individual's complaint enumerates additional sections or subsections of this amendment with the related

facts, that do not fall into a combination of complaints, the individual may elect to seek complaint of the additional items in a separate complaint.

(c) If a complaint is filed and not rejected, the court of competent jurisdiction must pass the complaint to the corresponding prosecutor's office, wherein the complaint must be given full consideration as it pertains to the provisions of this amendment. The prosecutor's office is thereby obligated to proceed with legally binding record's requests that would enable the full set of facts to come to light as it pertains to the complaint. And where there is found a likelihood of contravention to any degree related to the provisions of this amendment, the prosecutor's office is obligated to thereby facilitate the process to enable the individual with an appointed attorney if they so choose to have a court appointed attorney.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they anticipate no costs or savings from this initiative.

Officials from **Greene County** indicated there are unknown estimated costs related to the requirement of attaining independent organizations to audit the work of the county within section 4 to report from the County of Greene for this initiative petition proposing to amend Article XV.

Without any past information related to this type of audit that might be used to ascertain what the cost might be for the required audit, there is not an accurate estimate to submit at this time.

Officials from the **City of Kansas City** indicated this proposal if passed would have a negative fiscal impact on the city in an indeterminate amount. It would not allow a hospital, without patient consent, to tell a first responder that such responder has been exposed to certain infectious diseases. Which would drive up workers compensation insurance costs. The proposal's audit provisions could increase the city's administrative costs. The initiative petition could increase litigation against their city. The provisions regarding the nullification of federal law could have a negative fiscal impact by making the city, if it obeyed such provisions, ineligible for federal grant money.

Officials from **Metropolitan Community College** indicated no known fiscal impact.

Officials from **University of Central Missouri** indicated the estimated annual impact is about $440,000. This includes lost revenue of $390,000 and additional cost associated with electronic records of $50,000. The electronic recording cost relates to upgrading and hiring/training for the university's electronic medical record system. It relates to Section 10 Integrity and Transparency in Publicly Funded Medical Initiatives. The lost annual revenue relates to any type of immunization required screening, testing, or shots. Loss of revenue related to the insurance paid-out fees associated with the reduced amount of required immunization shots, screenings, and testings from the international and domestic students enrolled.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St.**

Charles County, St. Louis County, Taney County, the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University,** and the **Missouri Office of Prosecution Services.**

Fiscal Note Summary

State governmental entities estimate one-time costs totaling $100,000, ongoing costs that could be significant totaling at least $1.4 million annually, and reduced revenues totaling at least $3 billion annually. Local governmental entities estimate ongoing costs of an unknown amount and ongoing reduced revenues of an unknown amount.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 19, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Michael Phoenix regarding a proposed constitutional amendment to Article XV (2022-078)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Michael Phoenix on November 19, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____
Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

RECEIVED
2021 NOV 19 AM 8:35

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street)(City, Town or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
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10.					
11.					
12.					
13.					
14.					
15.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis).

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ☐ do not ☐ (check one) expect to be paid for circulating this petition. If paid, list the payer _____.

_____ Signature of Affiant (Person obtaining signatures)

_____ Address of Affiant

_____ Printed Name of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. 20___.

_____ Signature of Notary

Notary Public (Seal)

_____ Address of Notary

My commission expires _____

Be it resolved by the people of the State of Missouri that the constitution be amended:

ARTICLE XV
MEDICAL LIBERTY

SECTION

1. Definitions.
2. Individual Self-determination and Consent for Medical Interventions.
3. Limitations on Governing Bodies Mandating Medical Interventions.
4. Data Transparency For Determining Policies Regarding Contagions of Threat.
5. Domestic Entity Medical Neutrality Regarding Employees and Contractors.
6. Foreign Entity Medical Neutrality Regarding Employees and Contractors.
7. Nullification of Federal Medical Mandates.
8. Financial Accountability for Infringing an Individual's Medical Rights.
9. Transparency in Lobbying for Medical Initiatives and Funds.
10. Integrity and Transparency in Publicly Funded Medical Initiatives.
11. Due Process for Medical Liberty.

Section 1. Definitions.

(1) "Sovereign autonomous obligation" means the highest and most absolute legal form of authoritative power existing as a duty inherent in the individual that cannot be delegated to any degree.
(2) "Individual" means pertaining to, belonging to, or characteristic of, one single person, either in distinction from a firm, association, corporation, organization, or other such entity.
(3) "Contravene" means to act contrary to an axiom inherent to an individual's personhood such that a given contravention would act as a violation of an individual's right, obligation, or other such legal postulate.
(4) "People of a given region" means a collection of individuals of a given geographic context, whether as a formally defined entity such as a city, town or other such entity; or as defined by a colloquial preference in description such as "the midwest" or other such description.
(5) "People at large" means the collection of individuals that act as the general population.
(6) "Contagion" means a disease of any type that can be passed from one person or animal to another, by any type of mechanism that would facilitate transference through a population.
(7) "Concerned institution" means any type of entity formed as a fictitious agent, whether public, private, or governmental, that does not have distinct and individual personhood; and is involved in the process of overseeing, regulating, informing, or has any input into influencing the decisions of an individual to any degree.
(8) "Public entity" means any and all governmental agencies, organizations, committees, tribunals, or other such entities that are either formed by a formal constitution or as a derivative entity or bureaucratic agency of the governing body that has emerged from a constitution's binding legal authority on that governing body.
(9) "Injunctive counter-measures" means any type of formal policy, whether as law, regulation, or other such official declaration that has influence on the conduct of individuals or their private business matters, that is intended to inhibit a contagious threat on public health.
(10) "Threshold of data quality" means a clearly prescribed set of metrics that acts to remove any and all bias or ambiguity or both from a given set of data, to the fullest extent possible.
(11) "Reasonable speculation of doubt" means doubt, or a claim of skeptical foundation, arising from the preponderance of evidence to suggest that alternate opinions have validity based on the soundness of reason derived from the analytical capabilities to ingest and analyze data for the

purpose of arriving at a more clear supposition on the matters of discourse concerning the policy justifications pertaining to the public, and/or specific individuals.

(12) "Attribute" means any feature regarded as an identifiable characteristic of a contagion, or its impact on an individual(s), or any component related to a contagion or its impact.

(13) "Data profiling" means any process used to identify attributes of a given scenario or problem domain, or process used to aggregate any and all attributes, or process used to analyze any attribute or aggregate of attributes in any way for any reason.

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(25) "Reciprocity of effect" means a recapturing of any type of measurable benefit that was lost due to an entity's actions that have disrupted an individual's personal rights or private business interests.

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(27) "Publicly constituted entity" means any type of public entity in the State that exists as any type of electorally founded governing body; or as a derivative agency, office, or any other form of bureaucratic organization that gains its authority from any type of electorally founded governing body.

(28) "Document of scope" means the documentation through which any type of medical initiative will be documented with sufficient and unambiguous detail; wherein the details of the document are required to articulate and describe with as much detail as necessary to justify any subsequent transaction that would come to be if the initiative is authorized with funding.

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(32) "Credibility of benefit" means a scope of activity that is able to fully describe, in sufficient detail, both the measurable benefits intended to enhance the lives of individuals existing in the State, as well as any and all identifiable risks an initiative would pose on individuals; such that an initiative's scope has met a quantifiable threshold in fully articulating and describing the justifications of an initiative's goal as it pertains to enabling individuals freely consenting to a given benefit.

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Section 2. Individual Self-determination and Consent for Medical Interventions.

(1) The right and sovereign autonomous obligation of an individual to self-determine the need for any and all medical interventions, treatments, or other such manner of physical, mental, or emotional therapies or procedures shall not be contravened to any degree by the presence of any manner of condition in the individual, the people of a given region, or the people at large; nor shall it be contravened to any degree by the existence of any type of contagion anywhere on this planet or

elsewhere.

(2) All manner of consent shall remain solely with the individual without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior forms of constraint or coercion. The individual's right to have sufficient knowledge of all knowable effects of any type of medical intervention, treatment, or aforementioned therapy; as well as comprehension of the elements of the subject matter involved, to enable the individual's ability to have sufficient consideration and understanding, and thereby make a fully informed decision, shall be enabled, without delay, by any and all concerned institutions to the fullest extent possible with any and all information available.

Section 3. Limitations on Governing Bodies Mandating Medical Interventions.

(1) No cause shall exist by the State, it's Counties, Municipalities, or other such public entity therein to mandate, compel, or otherwise enforce any type of medical intervention or therapy on an individual, or group of individuals, for any reason; or to require, to any degree, an individual to make known any degree of medical history of the individual.

(2) Where any such aforementioned action is taken by a public entity, an individual shall have immediate cause to move a court of competent jurisdiction to adjudicate such contravention.

Section 4. Data Transparency For Determining Policies Regarding Contagions of Threat.

(1) Wherein there exists an increased risk of a contagion, of any type, in an individual, the people of given region, or in the people at large; any and all legislative, regulatory, or other such injunctive counter-measures or policies enacted with the intention to limit or cease the spread of the contagion, or that would otherwise impose limitations of any type on individuals or organizations, must be informed by, and justified with, a threshold of data quality exceeding a reasonable speculation of doubt in any and all data gathering and analysis initiatives that are used to identify any and all contagions, thresholds of infection, vectors of infection, or other such attribute ascertained by any manner of data profiling performed on any aspect of the contagion, its impact or potential impact on an individual, the impact on people of a given region, or the impact on the public at large.

(2) (a) As neutral and objective verification of the data and data processes used to determine a contagion's potency or lack thereof, its infection rates, or any other attribute of a contagion or its impact thereof, that is analyzed to any degree for the purpose of, or is otherwise used in, informing or justifying any type of public policy, legislation, or regulation; all the aforementioned aspects of data quality, profiling, gathering, and analysis must be submitted, by the State, it's Counties, Municipalities, or other such public entity therein, for audit to multiple independent organizations, public or private, with expertise in assessing data quality and integrity. Furthermore, any entity or individual with sufficiently describable processes to engender adequate knowledge and expertise to audit and review, who would volunteer to audit must be enabled to do so to the fullest extent possible with any and all aspects of the aforementioned components of analysis.

(b) The independent organizations selected by the State, it's Counties, Municipalities, or other such public entity therein, for the verification process, shall have no financial ties or incentives to any degree, or of any type, to any other organization or entity that is pursuing any type of remedy or treatment for the contagion, or is otherwise funding such initiative; such that the selected auditing organization is otherwise without any degree of conflict-of-interest.

(3) (a) Any and all data points and processes used to inform or justify any legislation, regulation, or other such policies of any type, must undergo an audit of all reporting processes and measures; with unambiguous visibility to any and all data sets used, data repositories accessed, data routines developed, or data models and algorithms designed and built in effort to analyze and inform any and all public policy. No manner of proprietary trade secret or other such intellectual property right shall suffice to inhibit full and unambiguous access to the necessary elements that would be the subject of the

aforementioned auditing process.

(b) Additionally, any and all elements, components, attributes, or processes subject to audit are required to be made freely available to the public without any type of redaction or limitation on visibility to every aspect used in performing any and all data profiling measures used to inform or justify any type of public policy. Any and all report submissions used as data points in the analyses described above, that would inform public policy, must also include full legal identification of the reporting individual and organization, including the date, time, and location the report was submitted; as well as include any and all pre-existing medical conditions of any of the individuals that were the subject of a report. All medical records used in any report submission or reporting process, describing any and all pre-existing medical conditions, must be sufficiently ambiguous only to the extent necessary to preserve an individual's unequivocal right to personal privacy; while allowing for a full analysis of all attributes that act as contributing factors in the rates of infection, spread of the contagion, or any other related or relevant attribute of any aspect of the contagion's threshold of threat to public health.

(4) Any aspect of any of the aforementioned data profiling measures that are found to have any degree of invalidity, ambiguity, or are otherwise inconsistent or incongruent with a threshold of data quality exceeding a reasonable speculation of doubt would thereby immediately nullify, in full-effect, any and all legislative, regulatory, or other such injunctive counter-measures enacted to limit or cease the spread of the contagion.

Section 5. Domestic Entity Medical Neutrality Regarding Employees and Contractors.

A domestic entity, of any type, public or private, established or certified in the State to any degree, shall have no justifiable cause to mandate, compel, or otherwise enforce any type of medical intervention or procedure on an individual, or group of individuals, employed or otherwise contracted in any way in the State; or to require an individual to make known any degree of medical history of the individual; as condition of employment or consideration in contract. Where any such aforementioned action is taken by an entity, an individual shall have immediate cause to move a court of civil consequence to adjudicate such contravention with a reciprocity of effect for any damages deemed reasonable by a court of competent jurisdiction.

Section 6. Foreign Entity Medical Neutrality Regarding Employees and Contractors.

A foreign entity, of any type, public or private, operating in the State to any capacity, shall have no justifiable cause to mandate, compel, or otherwise enforce any type of medical intervention or procedure on an individual, or group of individuals, employed or otherwise contracted in any way in the State; or to require an individual to make known any degree of medical history of the individual; as condition of employment or consideration in contract. Where any such aforementioned action is taken by an entity, an individual shall have immediate cause to move a court of civil consequence to adjudicate such contravention with a reciprocity of effect for any damages deemed reasonable by a court of competent jurisdiction.

Section 7. Nullification of Federal Medical Mandates.

Any Federal legislation, regulation, order, or other such manner of injunctive decree that would be found to infringe the liberties, freedoms, rights, obligations, or privileges outlined herein this amendment shall give immediate cause and requirement to the State, it's Counties, Municipalities, or other such public entity therein; to make null and void such injunctive decree, order, regulation, or legislation.

Section 8. Financial Accountability for Infringing an Individual's Medical Rights.

(1) Any public entity, of any type, enumerated herein the entirety of this amendment that would

be found to contravene, infringe, or transgress, to any degree, any and all liberties, freedoms, rights, obligations, or privileges of an individual, are liable for, and shall provide, all court costs, lawyer fees, or any manner of fee allocated to the individual for any type of legal proceeding or action taken by the individual to move a court to adjudicate, arbitrate, or bring to resolution in any way, the contravention of said liberties, freedoms, rights, obligations, or privileges of the individual.

(2) Any and all damages of any type that would be available therefrom any contravention, infringement, or transgression may only be sought by the individual person. No entity, of any type, may seek damages from or against an individual; nor shall an entity hold an individual liable in any way whatsoever.

Section 9. Transparency in Lobbying for Medical Initiatives and Funds.

Any entity in the State, of any type, domestic or foreign, whether organizational, governmental, or as an individual operating in one's own capacity, that has any type of interaction with a public official of any type, wherein the interaction has any type of discussion or communication of requiring, mandating, or otherwise enforcing any type of medical intervention, policy, or other such legislative or regulatory measure, decree, or mandate; or discusses or communicates any type of medical initiative of any type that requires or requests any degree of financial grant, loan, subsidy, or other such publicly funded financial instrument; must submit full transcript of the discussion or communications in the interaction, without redaction, to the State's Department of Health, and all other such agencies regulating or overseeing, to any degree, the medical governance in the State, it's Counties, Municipalities or other such publicly constituted entity therein. The transcripts shall be made freely available to the public to access the information, in either paper or digitally accessible and downloadable format, as well as be accessible without any type of redaction or limitation on visibility to the details of the transcripts of the discussion or communications.

Section 10. Integrity and Transparency in Publicly Funded Medical Initiatives.

(1) (a) Public entities, of any type, within the State that provides any amount of funding to any type of organization, agency, committee, individual, or entity, public or private; wherein the funds are used, to any degree, for medically related initiatives of any type, public or private, must require from the receiving entity or individual, a report detailing the full budgetary allocations of how the funds are intended to be used, along with a detailed set of goals or objectives that are intended to be the result of the initiative, prior to receiving the funds. The report shall act as the document of scope in determining both the credibility of the initiative's benefit to the people of the State, and the premise of analysis for any subsequent audit on usage of the funds. Where there exists no discernible benefit, or a benefit of ambiguous result there exists no credibility of benefit to the people. Any initiative that does not possess sufficient credibility of benefit shall not be provided funding to any degree.

(b) Entities that pass authorization and validation for sufficient credibility of benefit must submit a quarterly normalized data report with line item details of every transaction; consisting of the amount of the transaction, the date of the transaction, the identity of who the funds were remitted to, and any other detail required for full unambiguous audit of every transaction for which the funding was used. To the fullest extent possible, the transactional detail must comply with ISO 20022 standards for electronic data interchange between financial institutions.

(2) (a) The aforementioned Document of Scope, and the transaction details subjected to the aforementioned audit are required to be submitted to the State's Department of Health, and all other such public or private entities regulating or overseeing, to any degree, the medical governance in the State, its Counties, Municipalities, or other such publicly constituted entity therein; and made freely available to the public to access the information, in either paper or digitally accessible and downloadable format, as well as be accessible without any type of redaction or limitation on visibility to the details of the

transactions.

(b) The receiving entity must also submit semi-annual internal performance reviews of the initiative, detailing the success factors, key performance indicators, and any other identifiable measure used to gauge the success, or not, of the initiative's result as it pertains to the benefit to the people of the State, its Counties, Municipalities, or other such publicly constituted entity therein.

(3) Any transactions that would be found to fall outside the scope of the intended budgeted allocations are subject to remuneration of the funds back to the public entity that provided the funds.

Section 11. Due Process for Medical Liberty.

(1) (a) If any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged as invalid by a court of competent jurisdiction, all other provisions shall continue to be in full effect.

(b) For any clause, sentence, paragraph or section of this amendment, or an application thereof that is found to be invalid, in any way or to any degree, by a court of competent jurisdiction, a court of higher authority in the State shall review, with immediate due process, the decision of the lower court.

(c) In all reviews for validity of either any clause, sentence, paragraph, or section; or a court's ruling on any provision herein this amendment, deference shall be given toward a strict construction of interpretation. The strictness shall be founded exclusively on all of the the following three factors: (1) limiting and curtailing, to the greatest reasonable extent possible, the overreach of any public or private entity on the lives of individuals, (2) to preserve and uphold as sacrosanct the rights and liberties of individuals to the greatest extent possible, and (3) to create a transparent and unambiguous review of all details pertaining to the subject matter of any provision herein such that it can be accessed freely by the people of the State. Where a court has ruled on the validity of a provision, and the analysis has not considered these three factors, the ruling itself shall be deemed as invalid.

(2) (a) Where an individual or group of individuals moves a court to adjudicate a matter founded in the provisions of this amendment, full transparency of process shall be held as sacrosanct for all proceedings; except where the individual(s) in question are under the age of 18, in which case all due diligence to protect the individual's identity, and only the individual's identity, must be taken.

(b) If arbitration, mediation, or any mechanism other than full legal due process is sought as a means of resolution for any matter related to the provisions of this amendment, no limitations will be placed on visibility to the public of both the identity of the entity at odds with the individual(s), and all the details of the complaint. The individual(s) may elect to keep their own identities confidential, in which case the individual(s) right to privacy shall stand as sacrosanct and be struck from all public record.

(3) The final resolution of any type of proceeding, whether as a result of full due process or as another type of resolution, shall be made freely available without limitation on access at both the office of the State's Attorney General, as well as the office of the court of competent jurisdiction to which the original complaint was made, in either paper or digitally accessible and downloadable format.

(4) (a) The office of the State's Attorney General shall make publicly available to all county courthouses, within 60 days of the adoption of this amendment, a form template by which an individual can move a court of competent jurisdiction in the State, its Counties, Municipalities, or other such publicly constituted entity therein. The form shall only require for acceptance of a court of competent jurisdiction, the full legal name of the individual making the complaint, the name of the entity or entities at odds with the individual, and a description of no less than 200 words detailing the facts, including the specific section or subsection of this amendment that applies to the facts. If the specific section or subsection of this amendment that is applicable to the facts of the complaint is not enumerated in the description of the complaint, the court of competent jurisdiction may elect to immediately reject the complaint citing to the individual in common and understandable terms the specific reason for the rejection.

(b) If the court of competent jurisdiction, or the State's Attorney General finds that multiple complaints have been made by multiple individuals against the same entity at odds, enumerating the same section or subsection of this amendment, the court or the State's Attorney General may elect to combine the complaints into a single proceeding as necessary to expedite the due process. If an individual's complaint enumerates additional sections or subsections of this amendment with the related facts, that do not fall into a combination of complaints, the individual may elect to seek complaint of the additional items in a separate complaint.

(c) If a complaint is filed and not rejected, the court of competent jurisdiction must pass the complaint to the corresponding prosecutor's office, wherein the complaint must be given full consideration as it pertains to the provisions of this amendment. The prosecutor's office is thereby obligated to proceed with legally binding record's requests that would enable the full set of facts to come to light as it pertains to the complaint. And where there is found a likelihood of contravention to any degree related to the provisions of this amendment, the prosecutor's office is obligated to thereby facilitate the process to enable the individual with an appointed attorney if they so choose to have a court appointed attorney.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 9, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Michael Phoenix regarding a proposed constitutional amendment to Article XV (2022-077)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Michael Phoenix on November 9, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

Be it resolved by the people of the state of Missouri that the constitution be amended:

ARTICLE XV
MEDICAL LIBERTY

SECTION

1. Definitions.
2. Individual Self-determination and Consent for Medical Interventions.
3. Limitations on Governing Bodies Mandating Medical Interventions.
4. Data Transparency For Determining Policies Regarding Contagions of Threat.
5. Domestic Entity Medical Neutrality Regarding Employees and Contractors.
6. Foreign Entity Medical Neutrality Regarding Employees and Contractors.
7. Nullification of Federal Medical Mandates.
8. Financial Accountability for Infringing an Individual's Medical Rights.
9. Transparency in Lobbying for Medical Initiatives and Funds.
10. Integrity and Transparency in Publicly Funded Medical Initiatives.
11. Due Process for Medical Liberty.

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Section 1. Definitions.

(1) "Sovereign autonomous obligation" means the highest and most absolute legal form of authoritative power existing as a duty inherent in the individual that cannot be delegated to any degree.
(2) "Individual" means pertaining to, belonging to, or characteristic of, one single person, either in distinction from a firm, association, corporation, organization, or other such entity.
(3) "Contravene" means to act contrary to an axiom inherent to an individual's personhood such that a given contravention would act as a violation of an individual's right, obligation, or other such legal postulate.
(4) "People of a given region" means a collection of individuals of a given geographic context, whether as a formally defined entity such as a city, town or other such entity; or as defined by a colloquial preference in description such as "the midwest" or other such description.
(5) "People at large" means the collection of individuals that act as the general population.
(6) "Contagion" means a disease of any type that can be passed from one person or animal to another, by any type of mechanism that would facilitate transference through a population.
(7) "Concerned institution" means any type of entity formed as a fictitious agent, whether public, private, or governmental, that does not have distinct and individual personhood; and is involved in the process of overseeing, regulating, informing, or has any input into influencing the decisions of an individual to any degree.
(8) "Public entity" means any and all governmental agencies, organizations, committees, tribunals, or other such entities that are either formed by a formal constitution or as a derivative entity or bureaucratic agency of the governing body that has emerged from a constitution's binding legal authority on that governing body.
(9) "Injunctive counter-measures" means any type of formal policy, whether as law, regulation, or other such official declaration that has influence on the conduct of individuals or their private business matters, that is intended to inhibit a contagious threat on public health.
(10) "Threshold of data quality" means a clearly prescribed set of metrics that acts to remove any and all bias or ambiguity or both from a given set of data, to the fullest extent possible.

(11) "Reasonable speculation of doubt" means doubt, or a claim of skeptical foundation, arising from the preponderance of evidence to suggest that alternate opinions have validity based on the soundness of reason derived from the analytical capabilities to ingest and analyze data for the purpose of arriving at a more clear supposition on the matters of discourse concerning the policy justifications pertaining to the public, and/or specific individuals.

(12) "Attribute" means any feature regarded as an identifiable characteristic of a contagion, or its impact on an individual(s), or any component related to a contagion or its impact.

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Section 2. Individual Self-determination and Consent for Medical Interventions.

(1) The right and sovereign autonomous obligation of an individual to self-determine the need for any and all medical interventions, treatments, or other such manner of physical, mental, or emotional therapies or procedures shall not be contravened to any degree by the presence of any manner of condition in the individual, the people of a given region, or the people at large; nor shall it be contravened to any degree by the existence of any type of contagion anywhere on this planet or elsewhere.

(2) All manner of consent shall remain solely with the individual without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior forms of constraint or coercion. The individual's right to have sufficient knowledge of all knowable effects of any type of medical intervention, treatment, or aforementioned therapy; as well as comprehension of the elements of the subject matter involved, to enable the individual's ability to have sufficient consideration and understanding, and thereby make a fully informed decision, shall be enabled, without delay, by any and all concerned institutions to the fullest extent possible with any and all information available.

Section 3. Limitations on Governing Bodies Mandating Medical Interventions.

(1) No cause shall exist by the State, it's Counties, Municipalities, or other such public entity therein to mandate, compel, or otherwise enforce any type of medical intervention or therapy on an individual, or group of individuals, for any reason; or to require, to any degree, an individual to make known any degree of medical history of the individual.

(2) Where any such aforementioned action is taken by a public entity, an individual shall have immediate cause to move a court of competent jurisdiction to adjudicate such contravention.

Section 4. Data Transparency For Determining Policies Regarding Contagions of Threat.

(1) Wherein there exists an increased risk of a contagion, of any type, in an individual, the people of given region, or in the people at large; any and all legislative, regulatory, or other such injunctive counter-measures or policies enacted with the intention to limit or cease the spread of the contagion, or that would otherwise impose limitations of any type on individuals or organizations, must be informed by, and justified with, a threshold of data quality exceeding a reasonable speculation of doubt in any and all data gathering and analysis initiatives that are used to identify any and all contagions, thresholds of infection, vectors of infection, or other such attribute ascertained by any manner of data profiling performed on any aspect of the contagion, its impact or potential impact on an individual, the impact on people of a given region, or the impact on the public at large.

(2)(a) As neutral and objective verification of the data and data processes used to determine a contagion's potency or lack thereof, its infection rates, or any other attribute of a contagion or its impact thereof, that is analyzed to any degree for the purpose of, or is otherwise used in, informing or justifying any type of public policy, legislation, or regulation; all the aforementioned aspects of data quality, profiling, gathering, and analysis must be submitted, by the State, it's Counties, Municipalities, or other such public entity therein, for audit to multiple independent organizations, public or private, with expertise in assessing data quality and integrity. Furthermore, any entity or individual with sufficiently describable processes to engender adequate knowledge and expertise to audit and review, who would volunteer to audit must be enabled to do so to the fullest extent possible with any and all aspects of the

aforementioned components of analysis.

(b) The independent organizations selected by the State, it's Counties, Municipalities, or other such public entity therein, for the verification process, shall have no financial ties or incentives to any degree, or of any type, to any other organization or entity that is pursuing any type of remedy or treatment for the contagion, or is otherwise funding such initiative; such that the selected auditing organization is otherwise without any degree of conflict-of-interest.

(3)(a) Any and all data points and processes used to inform or justify any legislation, regulation, or other such policies of any type, must undergo an audit of all reporting processes and measures; with unambiguous visibility to any and all data sets used, data repositories accessed, data routines developed, or data models and algorithms designed and built in effort to analyze and inform any and all public policy. No manner of proprietary trade secret or other such intellectual property right shall suffice to inhibit full and unambiguous access to the necessary elements that would be the subject of the aforementioned auditing process.

(b) Additionally, any and all elements, components, attributes, or processes subject to audit are required to be made freely available to the public without any type of redaction or limitation on visibility to every aspect used in performing any and all data profiling measures used to inform or justify any type of public policy. Any and all report submissions used as data points in the analyses described above, that would inform public policy, must also include full legal identification of the reporting individual and organization, including the date, time, and location the report was submitted; as well as include any and all pre-existing medical conditions of any of the individuals that were the subject of a report. All medical records used in any report submission or reporting process, describing any and all pre-existing medical conditions, must be sufficiently ambiguous only to the extent necessary to preserve an individual's unequivocal right to personal privacy; while allowing for a full analysis of all attributes that act as contributing factors in the rates of infection, spread of the contagion, or any other related or relevant attribute of any aspect of the contagion's threshold of threat to public health.

(4) Any aspect of any of the aforementioned data profiling measures that are found to have any degree of invalidity, ambiguity, or are otherwise inconsistent or incongruent with a threshold of data quality exceeding a reasonable speculation of doubt would thereby immediately nullify, in full-effect, any and all legislative, regulatory, or other such injunctive counter-measures enacted to limit or cease the spread of the contagion.

Section 5. Domestic Entity Medical Neutrality Regarding Employees and Contractors.

A domestic entity, of any type, public or private, established or certified in the State to any degree, shall have no justifiable cause to mandate, compel, or otherwise enforce any type of medical intervention or procedure on an individual, or group of individuals, employed or otherwise contracted in any way in the State; or to require an individual to make known any degree of medical history of the individual; as condition of employment or consideration in contract. Where any such aforementioned action is taken by an entity, an individual shall have immediate cause to move a court of civil consequence to adjudicate such contravention with a reciprocity of effect for any damages deemed reasonable by a court of competent jurisdiction.

Section 6. Foreign Entity Medical Neutrality Regarding Employees and Contractors.

A foreign entity, of any type, public or private, operating in the State to any capacity, shall have no justifiable cause to mandate, compel, or otherwise enforce any type of medical intervention or procedure on an individual, or group of individuals, employed or otherwise contracted in any

way in the State; or to require an individual to make known any degree of medical history of the individual; as condition of employment or consideration in contract. Where any such aforementioned action is taken by an entity, an individual shall have immediate cause to move a court of civil consequence to adjudicate such contravention with a reciprocity of effect for any damages deemed reasonable by a court of competent jurisdiction.

Section 7. Nullification of Federal Medical Mandates.

Any Federal legislation, regulation, order, or other such manner of injunctive decree that would be found to infringe the liberties, freedoms, rights, obligations, or privileges outlined herein this amendment shall give immediate cause and requirement to the State, it's Counties, Municipalities, or other such public entity therein; to make null and void such injunctive decree, order, regulation, or legislation.

Section 8. Financial Accountability for Infringing an Individual's Medical Rights.

(1) Any public entity, of any type, enumerated herein the entirety of this amendment that would be found to contravene, infringe, or transgress, to any degree, any and all liberties, freedoms, rights, obligations, or privileges of an individual, are liable for, and shall provide, all court costs, lawyer fees, or any manner of fee allocated to the individual for any type of legal proceeding or action taken by the individual to move a court to adjudicate, arbitrate, or bring to resolution in any way, the contravention of said liberties, freedoms, rights, obligations, or privileges of the individual.

(2) Any and all damages of any type that would be available therefrom any contravention, infringement, or transgression may only be sought by the individual person. No entity, of any type, may seek damages from or against an individual; nor shall an entity hold an individual liable in any way whatsoever.

Section 9. Transparency in Lobbying for Medical Initiatives and Funds.

Any entity in the State, of any type, domestic or foreign, whether organizational, governmental, or as an individual operating in one's own capacity, that has any type of interaction with a public official of any type, wherein the interaction has any type of discussion or communication of requiring, mandating, or otherwise enforcing any type of medical intervention, policy, or other such legislative or regulatory measure, decree, or mandate; or discusses or communicates any type of medical initiative of any type that requires or requests any degree of financial grant, loan, subsidy, or other such publicly funded financial instrument; must submit full transcript of the discussion or communications in the interaction, without redaction, to the State's Department of Health, and all other such agencies regulating or overseeing, to any degree, the medical governance in the State, it's Counties, Municipalities or other such publicly constituted entity therein. The transcripts shall be made freely available to the public to access the information, in either paper or digitally accessible and downloadable format, as well as be accessible without any type of redaction or limitation on visibility to the details of the transcripts of the discussion or communications.

Section 10. Integrity and Transparency in Publicly Funded Medical Initiatives.

(1)(a) Public entities, of any type, within the State that provides any amount of funding to any type of organization, agency, committee, individual, or entity, public or private; wherein the funds are used, to any degree, for medically related initiatives of any type, public or private, must

require from the receiving entity or individual, a report detailing the full budgetary allocations of how the funds are intended to be used, along with a detailed set of goals or objectives that are intended to be the result of the initiative, prior to receiving the funds. The report shall act as the document of scope in determining both the credibility of the initiative's benefit to the people of the State, and the premise of analysis for any subsequent audit on usage of the funds. Where there exists no discernible benefit, or a benefit of ambiguous result there exists no credibility of benefit to the people. Any initiative that does not possess sufficient credibility of benefit shall not be provided funding to any degree.

(b) Entities that pass authorization and validation for sufficient credibility of benefit must submit a quarterly normalized data report with line item details of every transaction; consisting of the amount of the transaction, the date of the transaction, the identity of who the funds were remitted to, and any other detail required for full unambiguous audit of every transaction for which the funding was used. To the fullest extent possible, the transactional detail must comply with ISO 20022 standards for electronic data interchange between financial institutions.

(2) (a) The aforementioned Document of Scope, and the transaction details subjected to the aforementioned audit are required to be submitted to the State's Department of Health, and all other such public or private entities regulating or overseeing, to any degree, the medical governance in the State, its Counties, Municipalities, or other such publicly constituted entity therein; and made freely available to the public to access the information, in either paper or digitally accessible and downloadable format, as well as be accessible without any type of redaction or limitation on visibility to the details of the transactions.

(b) The receiving entity must also submit semi-annual internal performance reviews of the initiative, detailing the success factors, key performance indicators, and any other identifiable measure used to gauge the success, or not, of the initiative's result as it pertains to the benefit to the people of the State, its Counties, Municipalities, or other such publicly constituted entity therein.

(3) Any transactions that would be found to fall outside the scope of the intended budgeted allocations are subject to remuneration of the funds back to the public entity that provided the funds.

Section 11. Due Process for Medical Liberty.

(1)(a) If any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged as invalid by a court of competent jurisdiction, all other provisions shall continue to be in full effect.

(b) For any clause, sentence, paragraph or section of this amendment, or an application thereof that is found to be invalid, in any way or to any degree, by a court of competent jurisdiction, a court of higher authority in the State shall review, with immediate due process, the decision of the lower court.

(c) In all reviews for validity of either any clause, sentence, paragraph, or section; or a court's ruling on any provision herein this amendment, deference shall be given toward a strict construction of interpretation. The strictness shall be founded exclusively on all of the the following three factors: (1) limiting and curtailing, to the greatest reasonable extent possible, the overreach of any public or private entity on the lives of individuals, (2) to preserve and uphold as sacrosanct the rights and liberties of individuals to the greatest extent possible, and (3) to create a transparent and unambiguous review of all details pertaining to the subject matter of any provision herein such that it can be accessed freely by the people of the State. Where a court has ruled on the validity of a provision, and the analysis has not considered these three factors, the ruling itself shall be deemed as invalid.

(2)(a) Where an individual or group of individuals moves a court to adjudicate a matter founded in the provisions of this amendment, full transparency of process shall be held as

sacrosanct for all proceedings; except where the individual(s) in question are under the age of 18, in which case all due diligence to protect the individual's identity, and only the individual's identity, must be taken.

(b) If arbitration, mediation, or any mechanism other than full legal due process is sought as a means of resolution for any matter related to the provisions of this amendment, no limitations will be placed on visibility to the public of both the identity of the entity at odds with the individual(s), and all the details of the complaint. The individual(s) may elect to keep their own identities confidential, in which case the individual(s) right to privacy shall stand as sacrosanct and be struck from all public record.

(3) The final resolution of any type of proceeding, whether as a result of full due process or as another type of resolution, shall be made freely available without limitation on access at both the office of the State's Attorney General, as well as the office of the court of competent jurisdiction to which the original complaint was made, in either paper or digitally accessible and downloadable format.

(4)(a) The office of the State's Attorney General shall make publicly available to all county courthouses, within 60 days of the adoption of this amendment, a form template by which an individual can move a court of competent jurisdiction in the State, its Counties, Municipalities, or other such publicly constituted entity therein. The form shall only require for acceptance of a court of competent jurisdiction, the full legal name of the individual making the complaint, the name of the entity or entities at odds with the individual, and a description of no less than 200 words detailing the facts, including the specific section or subsection of this amendment that applies to the facts. If the specific section or subsection of this amendment that is applicable to the facts of the complaint is not enumerated in the description of the complaint, the court of competent jurisdiction may elect to immediately reject the complaint citing to the individual in common and understandable terms the specific reason for the rejection.

(b) If the court of competent jurisdiction, or the State's Attorney General finds that multiple complaints have been made by multiple individuals against the same entity at odds, enumerating the same section or subsection of this amendment, the court or the State's Attorney General may elect to combine the complaints into a single proceeding as necessary to expedite the due process. If an individual's complaint enumerates additional sections or subsections of this amendment with the related facts, that do not fall into a combination of complaints, the individual may elect to seek complaint of the additional items in a separate complaint.

(c) If a complaint is filed and not rejected, the court of competent jurisdiction must pass the complaint to the corresponding prosecutor's office, wherein the complaint must be given full consideration as it pertains to the provisions of this amendment. The prosecutor's office is thereby obligated to proceed with legally binding record's requests that would enable the full set of facts to come to light as it pertains to the complaint. And where there is found a likelihood of contravention to any degree related to the provisions of this amendment, the prosecutor's office is obligated to thereby facilitate the process to enable the individual with an appointed attorney if they so choose to have a court appointed attorney.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 27, 2021

RECEIVED
OCT 27 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Alixandra Cossette regarding a proposed constitutional amendment to Article III, version 9 (2022-076)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Alixandra Cossette on October 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

RECEIVED
2021 OCT 27 AM 10:40

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures)

Printed Name of Affiant

Street Address of Affiant

City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary

Address of Notary

(Seal)

22-076

NOTICE: The proposed amendment revises Article III of the Constitution by adopting one new section to be known as Article III, Section 39(g).

Be it resolved by the people of the state of Missouri that the Constitution be amended as follows:

Section A. Article III of the Constitution is revised by adopting one new Section to be known as Article III, Section 39(g) to read as follows:

Section 39(g) 1. Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state. Sports Wagering means wagering on professional athletic or sporting events.

2. The Missouri Gaming Commission shall promulgate rules to regulate Sports Wagering including, but not limited to, requirements that licensees cooperate with investigations conducted by law enforcement agencies or professional sports leagues.

3. (a) Notwithstanding any other provision of law, including Section 39(d), to the contrary, a wagering tax of 6.75 percent is imposed on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

(b) The state auditor shall perform an annual audit of the revenues received and appropriated pursuant to this section to ensure that they are being used only for authorized purposes. The state auditor shall make such audit available to the public, the governor, and the general assembly.

(c) The additional revenue provided by this section shall not be part of the "total state revenue" within the meaning of Article X, Sections 17 and 18. The expenditure of this additional revenue shall not be an "expense of state government" under Article X, Section 20.

4. Notwithstanding any other provision of law, including Article III, Section 39(9), to the contrary, the general assembly may enact laws consistent with this section.

5. All provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-076)

Subject

Initiative petition from Alixandra Cossette regarding a proposed constitutional amendment to Article III. (Received October 27, 2021)

Date

November 16, 2021

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **State Auditor's office,** and the **Missouri Gaming Commission.**

Alixandra S. Cossette, Attorney, Stinson LLP provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that they could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated this initiative petition may impact revenues received from tax imposed on Sports Wagering but their department has no means to calculate the amount of potential impact.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated their department assumes the increase in gambling opportunities will increase the number of individuals who voluntarily seek treatment for a gambling problem. However, the bill does not mandate that any individual receive treatment and treatment will remain voluntary. Therefore, they assume that expenditures cannot exceed the balance of the Compulsive Gamblers fund and no State General Revenue beyond that balance will be expended.

In fiscal year (FY) 21, their department served approximately 71 consumers through compulsive gambling (CG) treatment services with an average cost of $1,230 per consumer for a total of $87,330.

If the number of consumers served triples, they estimate treatment for 213 consumers with an average cost of $1,230 per treatment episode for a total treatment cost of $261,990. Currently, they have eleven certified compulsive gambling treatment providers; this number would likely need to increase over time along with the need for additional compulsive gambling counselors. They estimate 25 new compulsive gambling counselors will be needed throughout the state, with initial cost for training new counselors estimated at $160 per person for a total of $4,000 for FY 23.

If additional advertising is needed, their department anticipates annual cost for advertising with public service announcements for help with compulsive gambling at $166,400. Total cost to their department would be estimated at $360,325 in FY 23. For FY 24 and beyond, the amount would increase to $432,390 or more based upon the need for compulsive gambling services.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article III, version 9.

Officials from the **Department of Revenue** indicated this is an initiative petition that would go to the vote of the people at the November 2022 general election. If this is not adopted by the people, this would not have a fiscal impact.

Should this be adopted at the November 2022 election, by the time certification of the election occurs, it is assumed this constitutional amendment would have a January 1, 2023 effective date.

This proposal in Section 3.(a) assesses a wagering tax of 6.75% on the adjusted gross receipts received from sports wagering conducted by licensed entities. This proposal states that 50% of the revenue received from this tax is to be appropriated to support pre-kindergarten through 12th grade educational institutions and 50% of the revenue is to be appropriated for the construction, repair or maintenance of highways, roads or bridges.

This proposal does not specify which organization the Department of Revenue or the Missouri Gaming Commission is to collect this tax. Their department for purposes of the fiscal note will assume that they will be required to collect this tax. For their department to collect the tax they will need 1 Associate Customer Service Representative and creation of a new tax collection database. The costed associated with the full-time equivalent (FTE) employee are:

2023 -$45,339
2024 -$45,680

The Office of Administration - Information Technology Services Division (ITSD) anticipates the creation of a new sports betting tax collection database for their department.

ITSD - DOR							
Bill Number	HB 730	FN #	1112H.02I				
Bill Section(s)	313.1021.						
Application Name:	New System - Sports Betting Tax				**FY2022**	**FY2023**	**FY2024**
IT Consultants		**On-going Yes/No**	**Rate**	**Hours**	**$**	**$**	**$**
Requirements Gathering			95	96	9,120	-	-
Analysis			95	48	4,560	-	-
Design			95	48	4,560	-	-
Development			95	675	64,125	-	-
Test			95	96	9,120	-	-
Implementation			95	16	1,520	-	-
Project Management			95	78.32	7,440	-	-
On-going support			95		-	-	-
Section Total IT Consultants:			95	1,057.32	100,445	-	-

This proposal fails to identify a fund for this tax revenue to be deposited into or the specific funds that are to receive the revenue. Therefore, for the purpose of the fiscal note, their department assumes the revenue will be deposited into the General Revenue Fund.

Using the Oxford Economics report titled "Economic Impact of Legalized Sports Betting," their department believes total state revenue (TSR) will increase. This report breaks out the possible revenue impacts into three categories. They are Limited Availability, Moderate Availability, and Convenient Availability. For the purpose of this fiscal note response, their department utilized the Moderate Availability, due to the proposed legislation allowing sports wagering to occur in any of our casinos, and online. If online would have not been permitted, their department would have used the Limited Availability number, and if it were to be treated like the lottery, Convenient Availability would have been used.

$202,200,000 - $253,300,000 (Moderate Availability Adjusted Gross Receipts (AGR) Estimate per Oxford report)

$13,648,500 - $17,097,750 (6.75% tax imposed on AGR to General Revenue)

They also provided the following information:

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: 22-076

BILL:

FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2022	FY 2023	FY 2024
Associate Customer Service Rep	1	$24,360		$24,604	$24,850
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**1**		**1**	**1**	**1**
Total Salaries			**$0**	**$24,604**	**$24,850**
Fringe Benefits				**$20,244**	**$20,327**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2022	FY 2023	FY 2024
Cubicle - w/ Work Surface	580	1	$6,800		$6,800	
Chair	580	1	$596		$596	
Calculator	580	1	$20		$20	
Desktop Comuter System/I	580	1	$1,371		$1,371	
Telephone, Cisco US Stanc	580	1	$525		$525	
sports betting database		1	$100,445		$100,445	
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$0	$109,757	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Expendable Supplies	190	1	$372		$381	$391
Recurring Expenses	480	1	$107		$110	$112
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$491	$503
TOTAL EQUIPMENT AND EXPENSE				$0	$110,248	$503
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2022	FY 2023	FY 2024
Salaries	$0	$24,604	$24,850
Fringe Benefits	$0	$20,244	$20,327
Equipment and Expense	$0	$110,248	$503
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$155,096**	**$45,680**
II. Fund Revenue Sources			
AGR 21% wagering tax		$6,824,250-$8,548,875	$13,648,500-$17,097,750
Fines			
Administrative Sanctions			
Other Sources (Educational Fund)			
TOTAL FUND REVENUE - ALL SOURCES			
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**$6,669,154-$8,393,779**	**$13,602,820-$17,052,070**

Officials from the **Department of Public Safety - Office of the Director** indicated this initiative petition has no impact for their department, Director's Office. The Missouri Gaming Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office.

Response from the Missouri State Highway Patrol:

The Missouri State Highway Patrol's principal concern is the potential number of licensed entities eligible to provide sports wagering. As written, Section 39(g) 1. states in part, "Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state." However, as written, it would allow any of the 341 currently licensed "entities" by the Missouri Gaming Commission to offer sports wagering.

As to the question of the affect to personnel for the Patrol's Gaming Division, it would depend on the number of licensees, locations, and level of regulatory/criminal enforcement expected. The Patrol would need at least one (1) additional FTE to conduct background investigations. An increase in the number of licensees and physical locations would be an unknown cost, depending on the staffing needs to complete background checks, enforcement of rules, and criminal investigations. In addition, there would be costs for the Patrol's Gaming Division, Enforcement Section, for training related to the changes in the Missouri Constitution.

Missouri State Highway Patrol Expected Costs (Gaming Funds 0286):
1. Training - 120 troopers X $200 training per trooper = $24,000
2. One (1) FTE:
    a. Salary & Fringe = $152,968
    b. Expense & Equipment (one-time costs) = $93,448
    c. Expense & Equipment (on going costs) = $22,139

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to sports gambling should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would appropriate fifty percent (50%) of the taxes collected from sports wagering to highways, roads and bridges. If adopted, each version could have a zero to substantial (but unquantified) positive fiscal impact on the Missouri Department of Transportation (MoDOT) and the Missouri Highways and Transportation Commission (MHTC). Their department has no specific estimate on revenues that may be generated.

Officials from the **Office of Administration** indicated this proposal relating to sports gambling should not fiscally impact their office.

This proposal would allow any entity licensed by the Missouri Gaming Commission to offer Sports Wagering in this state. The proposal further imposes a wagering tax of 6.75% on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

Budget & Planning defers to the Missouri Gaming Commission for an estimate of increased revenues. This proposal will not affect total state revenue or Article X, Sections 17 and 18(e).

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article III, has no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate $5,000 per year in amusement license revenue as well as $50,000 in sales tax revenue. No additional costs. They estimated the $50,000 from other economic sales activity due to the overall legalization of sports gambling, not from the wagering tax. They see the wagering tax as in addition to existing sales taxes and due to the State to be split 50/50 for education and state highways, unless provided future information otherwise (such as State grants to local governments for highways/etc.).

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition proposing to amend Article III, version 9.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the proposed proposition would allow for sports wagering within the state and impose a sports wagering tax of 6.75% upon the adjusted gross receipts received from sports wagering by a licensed entity. Of the tax imposed, 50% would be allocated to a fund to support educational institutions (pre-K thru 12th grade) and 50% would be allocated for construction and repair or maintenance of highways, roads, or bridges.

While it can be anticipated that the majority of sports wagering activity would occur over the internet, the petition contemplates licensing for sports wagering on excursion gambling boats, sports and entertainment districts as well as internet based sports wagering platforms. Under existing gaming laws RSMo. 313.820 and 313.822, the City of St. Louis as a home dock city receives one half of the state's $2 admission fee and 10% of the state's 21% tax on adjusted gross receipts from its current gaming facilities. The proposed petition does not provide for an allocation of sports wagering revenues to the local home dock city. Thus to any extent that sports wagering becomes a growing share of gambling boat gaming activity, the city would see a reduction in revenues from gaming. Whether this potential loss can be offset from allocations from the aforementioned state funds is not clear.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri System** indicated they believe that this legislation will result in additional cost related to increased monitoring, training, and educational requirements. All previous versions of bills have included sports betting on college sports and they would be surprised if any bill put forward in Missouri would not as virtually every state has to some extent. Even if collegiate sports were excluded from any bill that passed, there would still likely be some increased costs in those areas simply because it would still be prohibited by the National Collegiate Athletic Association (NCAA) for their student-athletes and staff to bet on sports at any level, and they would now have the ability to do so in the state, on their phones, etc. However, it would not likely be as significant a financial impact as it would if betting were allowed on college sports.

Officials from the **State Auditor's office** indicated this proposal would have no fiscal impact on their office. Any impact can be absorbed through current appropriations.

Officials from the **Missouri Gaming Commission** (MGC) indicated:

This proposal will also affect the Missouri State Highway Patrol, the Missouri Department of Revenue, and the Missouri Department of Mental Health.

They anticipate licensees to pay various fees to the MGC in order to regulate and manage sports wagering in Missouri. It also imposes certain taxes be paid by licensees based on their adjusted gross revenue.

If this initiative petition passes, they estimate needing five new full-time equivalent positions, which would result in an initial cost to the MGC of $547,266.90 (including salary, fringe, supplies, equipment, and travel/lodging related to job performance of those additional employees), in addition to approximately $797,479.38, which represents 2.5% of the MGC existing budget each year (the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering) for a total initial cost of $1,344,706.27. Additional costs included in this estimate may also encompass those associated with the development and implementation of responsible gambling programs and consumer education campaigns. The total annual ongoing personnel cost, after the first year, is estimated to be $1,325,281.17.

The MGC and the Missouri State Highway Patrol (MSHP) currently have a Memorandum of Understanding (MOU) in place which states that the MSHP will provide background and criminal and regulatory investigation and enforcement support to the MGC to assist it in carrying out its duties, which could result in additional costs.

They estimate a total of 18 applicants for sports wagering licenses, to include the 13 current gambling boats and five sportsbook providers that would offer the platform for sportsbook wagering; the casinos could utilize the same sportsbook providers.

Based on the number of applicants, they estimate collection of fees between $1.8 and $4.5 million the first year up to $2.65 to $5.95 million by the fifth year of operation. The fees

would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MGC. The estimated range of fees comes from the American Gaming Association's (AGA) State of the States 2021 report,[1] which range from $0 to $10 million. The assumption is that the states with $0 fees have a dedicated funding source other than the fees received.

This proposal sets the wagering tax assessed on the adjusted gross receipts (AGR) received from sports wagering conducted by a licensed entity at 6.75%. AGR is calculated by starting with total revenue minus winnings, minus voided wagers and uncollectible receivables. They estimated Missouri's licensees' total revenue to be $146,437,962. They then subtracted an estimated amount (2% of total revenue) for uncollectible receivables, leaving an AGR of $143,509,203. Based on that amount, the MGC estimates the total estimated tax on AGR to be $9,686,871.19 each year, the revenue from which would be equally divided between pre-K through 12th grade educational institution and highways, roads, and bridge funding.

The annual total AGR for Missouri is estimated based on the State of Mississippi's sports wagering totals, minus uncollectibles and fees. Mississippi's Total Revenue from sports betting is the actual total revenue amounts from October 2019 through September 2021.[2] They then determined Mississippi's sports betting revenue was 2.50% of its total gaming revenue. This was calculated by taking $53,631,014 and dividing by $2,141,840,000 ($53,631,014 / $2,141,840,000 =.0250). They then could assume Missouri's sports betting revenue would also be 2.50% of Missouri's total gaming revenue of $1,754,470,000 ($1,754,470,000 x 2.50% = $43,931,389). Mississippi sports betting is limited to bets placed in person at the casinos. They assume that allowing online wagering will significantly increase revenue. Based on the experience in other states, including Pennsylvania and New Jersey, they made the assumption that the estimated $43 million calculated for wagers placed in person at casinos would comprise approximately 30% of the adjusted gross receipts. Therefore, sports betting revenue would be comprised of 70% mobile wagering and 30% retail wagering if the law would allow mobile wagers to be placed (($43,931,389 x 70%) / 30%) = $102,506,572 = additional revenue).

They presume the regulation of sports wagering as contemplated by the proposal would allow for internet-based sports wagering platforms (i.e., mobile sports wagering). If that is not the proposal's intent, then they would anticipate a significant negative impact on overall revenue and AGR as a result.

They assume the revenue from sports wagering will be significantly less based on the language of this proposal which limits sports wagering to "wagering on professional athletic or sports events." Several states allow sports wagering on college events, including

[1] The AGA State of the States 2021 report can be accessed at State of the States 2021 - American Gaming Association (https://www.americangaming.org/resources/state-of-the-states-2021/), specifically pages 1-9, 18, and 64-66.

[2] The State of Mississippi's Gaming Commission reports MGC used to calculate their amounts can be accessed at http://www.msgamingcommission.com/index.php/reports/monthly_reports.

the National Collegiate Athletic Association (NCAA) Men's Basketball Championships ("March Madness") and the NCAA Men's Football Championship Bowl Games, in addition to professional sports.

They also provided the following information:

Sports Wagering

Mobile wagers allowed

Position Title	Number of FTE	Annual Salary	Annual Fringes (33.12% plus $14,048)	IT Equipment (one time)	IT Equipment (ongoing)	Desk (one time)	Chair (one time)	File Cabinet (one time)	Calculator (one time)	Office Supplies (ongoing)	Voice/Data Wiring (one time)	Voice/Data (ongoing)	Annual Travel Expenses Related to Job Performance (ongoing)	TOTAL	Second Year and Ongoing
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Program Coordinator	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Admin Support Professional-Lic	**1**	$ 39,469	$ 27,120.13	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 81,891.51**	**$ 78,006.49**
Senior Regulatory Auditor	**1**	$ 55,451	$ 32,413.37	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 103,166.75**	**$ 99,281.73**
TOTAL	**5**	**$ 300,837.59**	**$ 169,877.41**	**$ 8,230.10**	**$ 2,056.80**	**$ 3,005.00**	**$ 3,595.00**	**$ 2,995.00**	**$ 100.00**	**$ 1,860.00**	**$ 1,500.00**	**$ 2,100.00**	**$ 51,070.00**	**$ 547,226.90**	**$ 527,801.80**
								Add additional MGC expense (from Sports Wagering Cost tab):						**$ 797,479.38**	**$ 797,479.38**
								Total estimated annual cost to MGC:						**$ 1,344,706.27**	**$ 1,325,281.17**

Revenue Streams[1]	Number of Applicants or Holders of Sports Wagering AGR [2]	Fee Amount [3]	1st Year	2nd Year	3rd Year	4th Year	5th Year	Fund to Deposit
Certificate of Authority Application Fee (Initially) -Casino	13	100,000-250,000	1,300,000-3,250,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Certificate Holder Administration Fee (Annual after the first year) -Casino	13	75,000-150,000	$ -	975,000-1,950,000	975,000-1,950,000	975,000-1,950,000	975,000-1,950,000	Gaming Commission Fund
Certificate Holder Reinvestigation Fee (in the 5th year after sports wagering commenced and each 5th year thereafter)-Casino	13	100,000-250,000	$ -	$ -	$ -	$ -	1,300,000-3,250,000	Gaming Commission Fund
Sports Wagering Platform License Application Fee (Initially)-Sportsbook Provider	5	100,000-250,000	500,000-1,250,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Sports Wagering Platform License Annual Renewal Fee (Annual after the first year)-Sportsbook Provider	5	75,000-150,000	$ -	375,000-750,000	375,000-750,000	375,000-750,000	375,000-750,000	Gaming Commission Fund
TOTAL FEES COLLECTED[4]			**1,800,000-4,500,000**	**1,350,000-2,700,000**	**1,350,000-2,700,000**	**1,350,000-2,700,000**	**2,650,000-5,950,000**	

[1] Note: The above collected fees would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MO Gaming Commission.

[2] The Number of Applicants assumes all 13 casinos will apply for a Certificate of Authority. We estimate that at least five (5) sportsbook providers will apply for a Sports Wagering Platform License. The casinos may offer more than one sportsbook provider option.

[3] The range of fee amounts listed comes from AGA's State of the States 2021 report (see tab called 'Other States Fees'). The fees listed on AGA's report range from zero dollars to $10 million. The assumption is that the states with zero dollar fees have a dedicated funding source other than the fees received.

[4] Total Fees Collected are estimates only and are based on the assumption that all casinos and sportbook providers are being approved and licensed at the same time.

MGC Approps	FY 22 Budget		
Appropriation 2990 MGC PS	$ 15,329,912.00	2.50%	$ 383,247.80
Appropriation 2991 MGC E&E	$ 1,731,187.00	2.50%	$ 43,279.68
Appropriation T285 Work Comp	$ 7,323.00	2.50%	$ 183.08
Appropriation T293 OASDHI	$ 1,213,220.00	2.50%	$ 30,330.50
Appropriation T297 MGC Ret	$ 3,448,696.00	2.50%	$ 86,217.40
Appropriation T304 MGC MSHP	$ 2,374,625.00	2.50%	$ 59,365.63
Appropriation T692 Cost Alloc	$ 437,328.00	2.50%	$ 10,933.20
Appropriation 1542 MSHP PS Fringe	$ 7,089,567.00	2.50%	$ 177,239.18
Appropriation 1543 MSHP E&E Fringe	$ 267,317.00	2.50%	$ 6,682.93
	$ 31,899,175.00		$ 797,479.38

Besides the FTE positions and additional costs reflected in the fiscal note, MGC also estimates an additional cost of approximately $797,479 (represents 2.5% of MGC existing budget) each year. $797,479 represents the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering.

Alixandra S. Cossette, Attorney, Stinson LLP provided the following information:

STINSON

Alixandra S. Cossette
ASSOCIATE
DIRECT: 573.556.3612
OFFICE: 573.636.6263
alixandra.cossette@stinson.com

November 5, 2021

Via Electronic Mail to: moaudit@auditor.mo.gov

The Honorable Nicole R. Galloway, CPA
Missouri State Auditor's Office
P.O. Box 869
Jefferson City, Missouri 65102

Re: Initiative Petition 2022-076

Dear Auditor Galloway:

Pursuant to Section 116.175, RSMo, I hereby submit this statement of fiscal impact to aid you and your office in estimating the fiscal impact of Initiative Petition 2022-076. Initiative Petition 2022-076 authorizes sports wagering in Missouri and taxes the adjusted gross receipts of those wagers at a tax rate of 6.75%. These tax revenues will be split with 50% of the revenues to be appropriated for pre-kindergarten through twelfth grade educational institutions and 50% of the revenue to be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

The fiscal impact described herein has been extrapolated based on the information provided by the Committee on Legislative Research, Oversight Division in fiscal notes for Senate Committee Substitute for Senate Bill 98 (2021), Senate Bill 217 (2021), and Senate Bill 256 (2021).

The Oversight Division based its estimates on information provided by the Missouri Gaming Commission. The Gaming Commission extrapolated from the experience of the state of Mississippi with sports wagering. The Gaming Commission determined that Mississippi's annual revenue from sports wagering was 1.87% of its total revenue from gaming between November 2018 and October 2020.

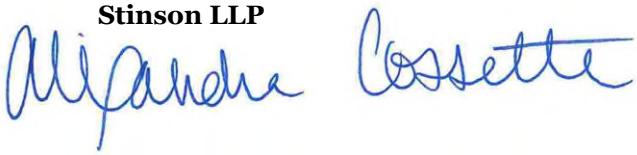
Assuming that same rate of 1.87% of total annual gaming revenue, the Gaming Commission assumed Missouri's sports wagering revenue would also be 1.87% of total gaming revenue in Missouri. Missouri's total annual gaming revenue is $1,754,470,000. 1.87% of that total is $32,808,589. However, Mississippi only allows wagers to be placed at casinos. In making fiscal estimates, the Gaming Commission assumed that allowing online wagering would significantly increase revenue. Considering experiences in other states, including Pennsylvania and New Jersey, the Gaming Commission assumed that the estimated $32 million calculated for wagers placed in person at casinos would comprise approximately 30% of the annual adjusted gross receipts. Therefore, the additional 70% of revenues would be from mobile wagering or approximately $76,553,374 annually. Therefore, total annual revenue from sports wagering would be $109,361,963.

The initiative petition imposes a tax rate of 6.75% on these adjusted gross receipts. Based on a tax rate of 10%, tax revenues would be $7,381,932.50. annually.

This analysis indicates that this initiative petition will ensure additional revenues for education and infrastructure. Therefore, I advise you to summarize the annual revenues as $7,381,932.50. to “unknown” since that is the most accurate description of the overall fiscal impact.

Sincerely,

Stinson LLP



Alixandra S. Cossette

ASC:

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities are estimated to have one-time costs of $246,000, ongoing costs of at least $1.5 million annually, initial revenues of $1.8 million to $4.5 million, and ongoing revenues of at least $8 million to $19 million annually. Local governmental entities estimate ongoing revenues of at least $55,000 annually.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 27, 2021

RECEIVED
OCT 27 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Alixandra Cossette regarding a proposed constitutional amendment to Article III, version 8 (2022-075)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Alixandra Cossette on October 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

RECEIVED
2021 OCT 27 AM 10:39

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

22-075

NOTICE: The proposed amendment revises Article III of the Constitution by adopting one new section to be known as Article III, Section 39(g).

Be it resolved by the people of the state of Missouri that the Constitution be amended as follows:

Section A. Article III of the Constitution is revised by adopting one new Section to be known as Article III, Section 39(g) to read as follows:

Section 39(g) 1. Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state. Sports Wagering means wagering on professional athletic or sporting events.

2. The Missouri Gaming Commission shall promulgate rules to regulate Sports Wagering including, but not limited to, requirements that licensees cooperate with investigations conducted by law enforcement agencies or professional sports leagues.

3. (a) Notwithstanding any other provision of law, including Section 39(d), to the contrary, a wagering tax of 10 percent is imposed on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

(b) The state auditor shall perform an annual audit of the revenues received and appropriated pursuant to this section to ensure that they are being used only for authorized purposes. The state auditor shall make such audit available to the public, the governor, and the general assembly.

(c) The additional revenue provided by this section shall not be part of the "total state revenue" within the meaning of Article X, Sections 17 and 18. The expenditure of this additional revenue shall not be an "expense of state government" under Article X, Section 20.

4. Notwithstanding any other provision of law, including Article III, Section 39(9), to the contrary, the general assembly may enact laws consistent with this section.

5. All provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-075)

Subject

Initiative petition from Alixandra Cossette regarding a proposed constitutional amendment to Article III. (Received October 27, 2021)

Date

November 16, 2021

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **State Auditor's office,** and the **Missouri Gaming Commission.**

Alixandra S. Cossette, Attorney, Stinson LLP provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that they could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated this initiative petition may impact revenues received from tax imposed on Sports Wagering but their department has no means to calculate the amount of potential impact.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated their department assumes the increase in gambling opportunities will increase the number of individuals who voluntarily seek treatment for a gambling problem. However, the bill does not mandate that any individual receive treatment and treatment will remain voluntary. Therefore, they assume that expenditures cannot exceed the balance of the Compulsive Gamblers fund and no State General Revenue beyond that balance will be expended.

In fiscal year (FY) 21, their department served approximately 71 consumers through compulsive gambling (CG) treatment services with an average cost of $1,230 per consumer for a total of $87,330.

If the number of consumers served triples, they estimate treatment for 213 consumers with an average cost of $1,230 per treatment episode for a total treatment cost of $261,990. Currently, they have eleven certified compulsive gambling treatment providers; this number would likely need to increase over time along with the need for additional compulsive gambling counselors. They estimate 25 new compulsive gambling counselors will be needed throughout the state, with initial cost for training new counselors estimated at $160 per person for a total of $4,000 for FY 23.

If additional advertising is needed, their department anticipates annual cost for advertising with public service announcements for help with compulsive gambling at $166,400. Total cost to their department would be estimated at $360,325 in FY 23. For FY 24 and beyond, the amount would increase to $432,390 or more based upon the need for compulsive gambling services.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article III, version 8.

Officials from the **Department of Revenue** indicated this is an initiative petition that would go to the vote of the people at the November 2022 general election. If this is not adopted by the people, this would not have a fiscal impact.

Should this be adopted at the November 2022 election, by the time certification of the election occurs, it is assumed this constitutional amendment would have a January 1, 2023 effective date.

This proposal in Section 3.(a) assesses a wagering tax of 10% on the adjusted gross receipts received from sports wagering conducted by licensed entities. This proposal states that 50% of the revenue received from this tax is to be appropriated to support pre-kindergarten through 12th grade educational institutions and 50% of the revenue is to be appropriated for the construction, repair or maintenance of highways, roads or bridges.

This proposal does not specify which organization the Department of Revenue or the Missouri Gaming Commission is to collect this tax. Their department for purposes of the fiscal note will assume that they will be required to collect this tax. For their department to collect the tax they will need 1 Associate Customer Service Representative and creation of a new tax collection database. The costed associated with the full-time equivalent (FTE) employee are:

2023 -$45,339
2024 -$45,680

The Office of Administration - Information Technology Services Division (ITSD) anticipates the creation of a new sports betting tax collection database for their department.

ITSD - DOR							
Bill Number	HB 730	FN #	1112H.02I				
Bill Section(s)	313.1021.						
Application Name:	New System - Sports Betting Tax				**FY2022**	**FY2023**	**FY2024**
IT Consultants		**On-going Yes/No**	**Rate**	**Hours**	**$**	**$**	**$**
Requirements Gathering			95	96	9,120	-	-
Analysis			95	48	4,560	-	-
Design			95	48	4,560	-	-
Development			95	675	64,125	-	-
Test			95	96	9,120	-	-
Implementation			95	16	1,520	-	-
Project Management			95	78.32	7,440	-	-
On-going support			95		-	-	-
Section Total IT Consultants:			95	1,057.32	100,445	-	-

This proposal fails to identify a fund for this tax revenue to be deposited into or the specific funds that are to receive the revenue. Therefore, for the purpose of the fiscal note, their department assumes the revenue will be deposited into the General Revenue Fund.

Using the Oxford Economics report titled "Economic Impact of Legalized Sports Betting," their department believes total state revenue (TSR) will increase. This report breaks out the possible revenue impacts into three categories. They are Limited Availability, Moderate Availability, and Convenient Availability. For the purpose of this fiscal note response, their department utilized the Moderate Availability, due to the proposed legislation allowing sports wagering to occur in any of our casinos, and online. If online would have not been permitted, their department would have used the Limited Availability number, and if it were to be treated like the lottery, Convenient Availability would have been used.

$202,200,000 - $253,300,000 (Moderate Availability Adjusted Gross Receipts (AGR) Estimate per Oxford report)

$20,220,000 - $25,330,000 (10% tax imposed to general revenue)

They also provided the following information:

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: 22-075

BILL:

FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2022	FY 2023	FY 2024
Associate Customer Service Rep	1	$24,360		$24,604	$24,850
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**1**		**1**	**1**	**1**
Total Salaries			**$0**	**$24,604**	**$24,850**
Fringe Benefits				**$20,244**	**$20,327**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2022	FY 2023	FY 2024
Cubicle - w/ Work Surface	580	1	$6,800		$6,800	
Chair	580	1	$596		$596	
Calculator	580	1	$20		$20	
Desktop Comuter System/I	580	1	$1,371		$1,371	
Telephone, Cisco US Stanc	580	1	$525		$525	
sports betting database		1	$100,445		$100,445	
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$0	$109,757	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Expendable Supplies	190	1	$372		$381	$391
Recurring Expenses	480	1	$107		$110	$112
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$491	$503
TOTAL EQUIPMENT AND EXPENSE				$0	$110,248	$503
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2022	FY 2023	FY 2024
Salaries	$0	$24,604	$24,850
Fringe Benefits	$0	$20,244	$20,327
Equipment and Expense	$0	$110,248	$503
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$155,096**	**$45,680**
II. Fund Revenue Sources			
AGR 21% wagering tax		$10,110,000-$12,665,000	$20,220,000-$25,330,000
Fines			
Administrative Sanctions			
Other Sources (Educational Fund)			
TOTAL FUND REVENUE - ALL SOURCES			
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**$9,954,904-$12,509,904**	**$20,174,320-$25,284,320**

Officials from the **Department of Public Safety - Office of the Director** indicated this initiative petition has no impact for their department, Director's Office. The Missouri Gaming Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office.

Response from the Missouri State Highway Patrol:

The Missouri State Highway Patrol's principal concern is the potential number of licensed entities eligible to provide sports wagering. As written, Section 39(g) 1. states in part, "Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state." However, as written, it would allow any of the 341 currently licensed "entities" by the Missouri Gaming Commission to offer sports wagering.

As to the question of the affect to personnel for the Patrol's Gaming Division, it would depend on the number of licensees, locations, and level of regulatory/criminal enforcement expected. The Patrol would need at least one (1) additional FTE to conduct background investigations. An increase in the number of licensees and physical locations would be an unknown cost, depending on the staffing needs to complete background checks, enforcement of rules, and criminal investigations. In addition, there would be costs for the Patrol's Gaming Division, Enforcement Section, for training related to the changes in the Missouri Constitution.

Missouri State Highway Patrol Expected Costs (Gaming Funds 0286):
1. Training - 120 troopers X $200 training per trooper = $24,000
2. One (1) FTE:
    a. Salary & Fringe = $152,968
    b. Expense & Equipment (one-time costs) = $93,448
    c. Expense & Equipment (on going costs) = $22,139

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to sports gambling should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would appropriate fifty percent (50%) of the taxes collected from sports wagering to highways, roads and bridges. If adopted, each version could have a zero to substantial (but unquantified) positive fiscal impact on the Missouri Department of Transportation (MoDOT) and the Missouri Highways and Transportation Commission (MHTC). Their department has no specific estimate on revenues that may be generated.

Officials from the **Office of Administration** indicated this proposal relating to sports gambling should not fiscally impact their office.

This proposal would allow any entity licensed by the Missouri Gaming Commission to offer Sports Wagering in this state. The proposal further imposes a wagering tax of 10% on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

Budget & Planning defers to the Missouri Gaming Commission for an estimate of increased revenues. This proposal will not affect total state revenue or Article X, Sections 17 and 18(e).

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article III, has no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate $5,000 per year in amusement license revenue as well as $50,000 in sales tax revenue. No additional costs. They estimated the $50,000 from other economic sales activity due to the overall legalization of sports gambling, not from the wagering tax. They see the wagering tax as in addition to existing sales taxes and due to the State to be split 50/50 for education and state highways, unless provided future information otherwise (such as State grants to local governments for highways/etc.).

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition proposing to amend Article III, version 8.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the proposed proposition would allow for sports wagering within the state and impose a sports wagering tax of 10% upon the adjusted gross receipts received from sports wagering by a licensed entity. Of the tax imposed, 50% would be allocated to a fund to support educational institutions (pre-K thru 12th grade) and 50% would be allocated for construction and repair or maintenance of highways, roads, or bridges.

While it can be anticipated that the majority of sports wagering activity would occur over the internet, the petition contemplates licensing for sports wagering on excursion gambling boats, sports and entertainment districts as well as internet based sports wagering platforms. Under existing gaming laws RSMo. 313.820 and 313.822, the City of St. Louis as a home dock city receives one half of the state's $2 admission fee and 10% of the state's 21% tax on adjusted gross receipts from its current gaming facilities. The proposed petition does not provide for an allocation of sports wagering revenues to the local home dock city. Thus to any extent that sports wagering becomes a growing share of gambling boat gaming activity, the city would see a reduction in revenues from gaming. Whether this potential loss can be offset from allocations from the aforementioned state funds is not clear.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri System** indicated they believe that this legislation will result in additional cost related to increased monitoring, training, and educational requirements. All previous versions of bills have included sports betting on college sports and they would be surprised if any bill put forward in Missouri would not as virtually every state has to some extent. Even if collegiate sports were excluded from any bill that passed, there would still likely be some increased costs in those areas simply because it would still be prohibited by the National Collegiate Athletic Association (NCAA) for their student-athletes and staff to bet on sports at any level, and they would now have the ability to do so in the state, on their phones, etc. However, it would not likely be as significant a financial impact as it would if betting were allowed on college sports.

Officials from the **State Auditor's office** indicated this proposal would have no fiscal impact on their office. Any impact can be absorbed through current appropriations.

Officials from the **Missouri Gaming Commission** (MGC) indicated:

This proposal will also affect the Missouri State Highway Patrol, the Missouri Department of Revenue, and the Missouri Department of Mental Health.

They anticipate licensees to pay various fees to the MGC in order to regulate and manage sports wagering in Missouri. It also imposes certain taxes be paid by licensees based on their adjusted gross revenue.

If this initiative petition passes, they estimate needing five new full-time equivalent positions, which would result in an initial cost to the MGC of $547,266.90 (including salary, fringe, supplies, equipment, and travel/lodging related to job performance of those additional employees), in addition to approximately $797,479.38, which represents 2.5% of the MGC existing budget each year (the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering) for a total initial cost of $1,344,706.27. Additional costs included in this estimate may also encompass those associated with the development and implementation of responsible gambling programs and consumer education campaigns. The total annual ongoing personnel cost, after the first year, is estimated to be $1,325,281.17.

The MGC and the Missouri State Highway Patrol (MSHP) currently have a Memorandum of Understanding (MOU) in place which states that the MSHP will provide background and criminal and regulatory investigation and enforcement support to the MGC to assist it in carrying out its duties, which could result in additional costs.

They estimate a total of 18 applicants for sports wagering licenses, to include the 13 current gambling boats and five sportsbook providers that would offer the platform for sportsbook wagering; the casinos could utilize the same sportsbook providers.

Based on the number of applicants, they estimate collection of fees between $1.8 and $4.5 million the first year up to $2.65 to $5.95 million by the fifth year of operation. The fees

would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MGC. The estimated range of fees comes from the American Gaming Association's (AGA) State of the States 2021 report,[1] which range from $0 to $10 million. The assumption is that the states with $0 fees have a dedicated funding source other than the fees received.

This proposal sets the wagering tax assessed on the adjusted gross receipts (AGR) received from sports wagering conducted by a licensed entity at 10%. AGR is calculated by starting with total revenue minus winnings, minus voided wagers and uncollectible receivables. They estimated Missouri's licensees' total revenue to be $146,437,962. They then subtracted an estimated amount (2% of total revenue) for uncollectible receivables, leaving an AGR of $143,509,203. Based on that amount, the MGC estimates the total estimated tax on AGR to be $14,350,920.28 each year, the revenue from which would be equally divided between pre-K through 12th grade educational institution and highways, roads, and bridge funding.

The annual total AGR for Missouri is estimated based on the State of Mississippi's sports wagering totals, minus uncollectibles and fees. Mississippi's Total Revenue from sports betting is the actual total revenue amounts from October 2019 through September 2021.[2] They then determined Mississippi's sports betting revenue was 2.50% of its total gaming revenue. This was calculated by taking $53,631,014 and dividing by $2,141,840,000 ($53,631,014 / $2,141,840,000 =.0250). They then could assume Missouri's sports betting revenue would also be 2.50% of Missouri's total gaming revenue of $1,754,470,000 ($1,754,470,000 x 2.50% = $43,931,389). Mississippi sports betting is limited to bets placed in person at the casinos. They assume that allowing online wagering will significantly increase revenue. Based on the experience in other states, including Pennsylvania and New Jersey, they made the assumption that the estimated $43 million calculated for wagers placed in person at casinos would comprise approximately 30% of the adjusted gross receipts. Therefore, sports betting revenue would be comprised of 70% mobile wagering and 30% retail wagering if the law would allow mobile wagers to be placed (($43,931,389 x 70%) / 30%) = $102,506,572 = additional revenue).

They presume the regulation of sports wagering as contemplated by the proposal would allow for internet-based sports wagering platforms (i.e., mobile sports wagering). If that is not the proposal's intent, then they would anticipate a significant negative impact on overall revenue and AGR as a result.

They assume the revenue from sports wagering will be significantly less based on the language of this proposal which limits sports wagering to "wagering on professional athletic or sports events." Several states allow sports wagering on college events, including

[1] The AGA State of the States 2021 report can be accessed at State of the States 2021 - American Gaming Association (https://www.americangaming.org/resources/state-of-the-states-2021/), specifically pages 1-9, 18, and 64-66.

[2] The State of Mississippi's Gaming Commission reports MGC used to calculate their amounts can be accessed at http://www.msgamingcommission.com/index.php/reports/monthly_reports.

the National Collegiate Athletic Association (NCAA) Men's Basketball Championships ("March Madness") and the NCAA Men's Football Championship Bowl Games, in addition to professional sports.

They also provided the following information:

Sports Wagering

Mobile wagers allowed

Position Title	Number of FTE	Annual Salary	Annual Fringes (33.12% plus $14,048)	IT Equipment (one time)	IT Equipment (ongoing)	Desk (one time)	Chair (one time)	File Cabinet (one time)	Calculator (one time)	Office Supplies (ongoing)	Voice/Data Wiring (one time)	Voice/Data (ongoing)	Annual Travel Expenses Related to Job Performance (ongoing)	TOTAL	Second Year and Ongoing
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Program Coordinator	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Admin Support Professional-Lic	**1**	$ 39,469	$ 27,120.13	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 81,891.51**	**$ 78,006.49**
Senior Regulatory Auditor	**1**	$ 55,451	$ 32,413.37	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 103,166.75**	**$ 99,281.73**
TOTAL	**5**	**$ 300,837.59**	**$ 169,877.41**	**$ 8,230.10**	**$ 2,056.80**	**$ 3,005.00**	**$ 3,595.00**	**$ 2,995.00**	**$ 100.00**	**$ 1,860.00**	**$ 1,500.00**	**$ 2,100.00**	**$ 51,070.00**	**$ 547,226.90**	**$ 527,801.80**
								Add additional MGC expense (from Sports Wagering Cost tab):						**$ 797,479.38**	**$ 797,479.38**
								Total estimated annual cost to MGC:						**$ 1,344,706.27**	**$ 1,325,281.17**

Revenue Streams[1]	Number of Applicants or Holders of Sports Wagering AGR [2]	Fee Amount [3]	1st Year	2nd Year	3rd Year	4th Year	5th Year	Fund to Deposit
Certificate of Authority Application Fee (Initially) -Casino	13	100,000-250,000	1,300,000-3,250,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Certificate Holder Administration Fee (Annual after the first year) -Casino	13	75,000-150,000	$ -	975,000-1,950,000	975,000-1,950,000	975,000-1,950,000	975,000-1,950,000	Gaming Commission Fund
Certificate Holder Reinvestigation Fee (in the 5th year after sports wagering commenced and each 5th year thereafter)-Casino	13	100,000-250,000	$ -	$ -	$ -	$ -	1,300,000-3,250,000	Gaming Commission Fund
Sports Wagering Platform License Application Fee (Initially)-Sportsbook Provider	5	100,000-250,000	500,000-1,250,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Sports Wagering Platform License Annual Renewal Fee (Annual after the first year)-Sportsbook Provider	5	75,000-150,000	$ -	375,000-750,000	375,000-750,000	375,000-750,000	375,000-750,000	Gaming Commission Fund
TOTAL FEES COLLECTED[4]			**1,800,000-4,500,000**	**1,350,000-2,700,000**	**1,350,000-2,700,000**	**1,350,000-2,700,000**	**2,650,000-5,950,000**	

[1] Note: The above collected fees would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MO Gaming Commission.

[2] The Number of Applicants assumes all 13 casinos will apply for a Certificate of Authority. We estimate that at least five (5) sportsbook providers will apply for a Sports Wagering Platform License. The casinos may offer more than one sportsbook provider option.

[3] The range of fee amounts listed comes from AGA's State of the States 2021 report (see tab called 'Other States Fees'). The fees listed on AGA's report range from zero dollars to $10 million. The assumption is that the states with zero dollar fees have a dedicated funding source other than the fees received.

[4] Total Fees Collected are estimates only and are based on the assumption that all casinos and sportbook providers are being approved and licensed at the same time.

MGC Approps	FY 22 Budget		
Appropriation 2990 MGC PS	$ 15,329,912.00	2.50%	$ 383,247.80
Appropriation 2991 MGC E&E	$ 1,731,187.00	2.50%	$ 43,279.68
Appropriation T285 Work Comp	$ 7,323.00	2.50%	$ 183.08
Appropriation T293 OASDHI	$ 1,213,220.00	2.50%	$ 30,330.50
Appropriation T297 MGC Ret	$ 3,448,696.00	2.50%	$ 86,217.40
Appropriation T304 MGC MSHP	$ 2,374,625.00	2.50%	$ 59,365.63
Appropriation T692 Cost Alloc	$ 437,328.00	2.50%	$ 10,933.20
Appropriation 1542 MSHP PS Fringe	$ 7,089,567.00	2.50%	$ 177,239.18
Appropriation 1543 MSHP E&E Fringe	$ 267,317.00	2.50%	$ 6,682.93
	$ 31,899,175.00		$ 797,479.38

Besides the FTE positions and additional costs reflected in the fiscal note, MGC also estimates an additional cost of approximately $797,479 (represents 2.5% of MGC existing budget) each year. $797,479 represents the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering.

Alixandra S. Cossette, Attorney, Stinson LLP provided the following information:

STINSON

Alixandra S. Cossette
ASSOCIATE
DIRECT: 573.556.3612
OFFICE: 573.636.6263
alixandra.cossette@stinson.com

November 5, 2021

Via Electronic Mail to: moaudit@auditor.mo.gov

The Honorable Nicole R. Galloway, CPA
Missouri State Auditor's Office
P.O. Box 869
Jefferson City, Missouri 65102

Re: Initiative Petition 2022-075

Dear Auditor Galloway:

Pursuant to Section 116.175, RSMo, I hereby submit this statement of fiscal impact to aid you and your office in estimating the fiscal impact of Initiative Petition 2022-075. Initiative Petition 2022-075 authorizes sports wagering in Missouri and taxes the adjusted gross receipts of those wagers at a tax rate of 10%. These tax revenues will be split with 50% of the revenues to be appropriated for pre-kindergarten through twelfth grade educational institutions and 50% of the revenue to be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

The fiscal impact described herein has been extrapolated based on the information provided by the Committee on Legislative Research, Oversight Division in fiscal notes for Senate Committee Substitute for Senate Bill 98 (2021), Senate Bill 217 (2021), and Senate Bill 256 (2021).

The Oversight Division based its estimates on information provided by the Missouri Gaming Commission. The Gaming Commission extrapolated from the experience of the state of Mississippi with sports wagering. The Gaming Commission determined that Mississippi's annual revenue from sports wagering was 1.87% of its total revenue from gaming between November 2018 and October 2020.

Assuming that same rate of 1.87% of total annual gaming revenue, the Gaming Commission assumed Missouri's sports wagering revenue would also be 1.87% of total gaming revenue in Missouri. Missouri's total annual gaming revenue is $1,754,470,000. 1.87% of that total is $32,808,589. However, Mississippi only allows wagers to be placed at casinos. In making fiscal estimates, the Gaming Commission assumed that allowing online wagering would significantly increase revenue. Considering experiences in other states, including Pennsylvania and New Jersey, the Gaming Commission assumed that the estimated $32 million calculated for wagers placed in person at casinos would comprise approximately 30% of the annual adjusted gross receipts. Therefore, the additional 70% of revenues would be from mobile wagering or approximately $76,553,374 annually. Therefore, total annual revenue from sports wagering would be $109,361,963.

The initiative petition imposes a tax rate of 10% on these adjusted gross receipts. Based on a tax rate of 10%, tax revenues would be $10,936,196.30 annually.

This analysis indicates that this initiative petition will ensure additional revenues for education and infrastructure. Therefore, I advise you to summarize the annual revenues as $10,936,196.30 to "unknown" since that is the most accurate description of the overall fiscal impact.

Sincerely,

Stinson LLP



Alixandra S. Cossette

ASC:

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities are estimated to have one-time costs of $246,000, ongoing costs of at least $1.5 million annually, initial revenues of $1.8 million to $4.5 million, and ongoing revenues of at least $12 million to $28 million annually. Local governmental entities estimate ongoing revenues of at least $55,000 annually.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 27, 2021

RECEIVED
OCT 27 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Alixandra Cossette regarding a proposed constitutional amendment to Article III, version 7 (2022-074)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Alixandra Cossette on October 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

RECEIVED
2021 OCT 27 AM 10:38
SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

22-074

NOTICE: The proposed amendment revises Article III of the Constitution by adopting one new section to be known as Article III, Section 39(g).

Be it resolved by the people of the state of Missouri that the Constitution be amended as follows:

Section A. Article III of the Constitution is revised by adopting one new Section to be known as Article III, Section 39(g) to read as follows:

Section 39(g) 1. Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state. Sports Wagering means wagering on professional athletic or sporting events.

2. The Missouri Gaming Commission shall promulgate rules to regulate Sports Wagering including, but not limited to, requirements that licensees cooperate with investigations conducted by law enforcement agencies or professional sports leagues.

3. (a) Notwithstanding any other provision of law, including Section 39(d), to the contrary, a wagering tax of 21 percent is imposed on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

(b) The state auditor shall perform an annual audit of the revenues received and appropriated pursuant to this section to ensure that they are being used only for authorized purposes. The state auditor shall make such audit available to the public, the governor, and the general assembly.

(c) The additional revenue provided by this section shall not be part of the "total state revenue" within the meaning of Article X, Sections 17 and 18. The expenditure of this additional revenue shall not be an "expense of state government" under Article X, Section 20.

4. Notwithstanding any other provision of law, including Article III, Section 39(9), to the contrary, the general assembly may enact laws consistent with this section.

5. All provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-074)

Subject

Initiative petition from Alixandra Cossette regarding a proposed constitutional amendment to Article III. (Received October 27, 2021)

Date

November 16, 2021

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **State Auditor's office,** and the **Missouri Gaming Commission.**

Alixandra S. Cossette, Attorney, Stinson LLP provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that they could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated this initiative petition may impact revenues received from tax imposed on Sports Wagering but their department has no means to calculate the amount of potential impact.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated their department assumes the increase in gambling opportunities will increase the number of individuals who voluntarily seek treatment for a gambling problem. However, the bill does not mandate that any individual receive treatment and treatment will remain voluntary. Therefore, they assume that expenditures cannot exceed the balance of the Compulsive Gamblers fund and no State General Revenue beyond that balance will be expended.

In fiscal year (FY) 21, their department served approximately 71 consumers through compulsive gambling (CG) treatment services with an average cost of $1,230 per consumer for a total of $87,330.

If the number of consumers served triples, they estimate treatment for 213 consumers with an average cost of $1,230 per treatment episode for a total treatment cost of $261,990. Currently, they have eleven certified compulsive gambling treatment providers; this number would likely need to increase over time along with the need for additional compulsive gambling counselors. They estimate 25 new compulsive gambling counselors will be needed throughout the state, with initial cost for training new counselors estimated at $160 per person for a total of $4,000 for FY 23.

If additional advertising is needed, their department anticipates annual cost for advertising with public service announcements for help with compulsive gambling at $166,400. Total cost to their department would be estimated at $360,325 in FY 23. For FY 24 and beyond, the amount would increase to $432,390 or more based upon the need for compulsive gambling services.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article III, version 7.

Officials from the **Department of Revenue** indicated this is an initiative petition that would go to the vote of the people at the November 2022 general election. If this is not adopted by the people, this would not have a fiscal impact.

Should this be adopted at the November 2022 election, by the time certification of the election occurs, it is assumed this constitutional amendment would have a January 1, 2023 effective date.

This proposal in Section 3.(a) assesses a wagering tax of 21% on the adjusted gross receipts received from sports wagering conducted by licensed entities. This proposal states that 50% of the revenue received from this tax is to be appropriated to support pre-kindergarten through 12th grade educational institutions and 50% of the revenue is to be appropriated for the construction, repair or maintenance of highways, roads or bridges.

This proposal does not specify which organization the Department of Revenue or the Missouri Gaming Commission is to collect this tax. Their department for purposes of the fiscal note will assume that they will be required to collect this tax. For their department to collect the tax they will need 1 Associate Customer Service Representative and creation of a new tax collection database. The costed associated with the full-time equivalent (FTE) employee are:

2023 -$45,339
2024 -$45,680

The Office of Administration - Information Technology Services Division (ITSD) anticipates the creation of a new sports betting tax collection database for their department.

ITSD - DOR							
Bill Number	HB 730	FN #	1112H.02I				
Bill Section(s)	313.1021.						
Application Name:	New System - Sports Betting Tax				**FY2022**	**FY2023**	**FY2024**
IT Consultants		**On-going Yes/No**	**Rate**	**Hours**	**$**	**$**	**$**
Requirements Gathering			95	96	9,120	-	-
Analysis			95	48	4,560	-	-
Design			95	48	4,560	-	-
Development			95	675	64,125	-	-
Test			95	96	9,120	-	-
Implementation			95	16	1,520	-	-
Project Management			95	78.32	7,440	-	-
On-going support			95		-	-	-
Section Total IT Consultants:			95	1,057.32	100,445	-	-

This proposal fails to identify a fund for this tax revenue to be deposited into or the specific funds that are to receive the revenue. Therefore, for the purpose of the fiscal note, their department assumes the revenue will be deposited into the General Revenue Fund.

Using the Oxford Economics report titled "Economic Impact of Legalized Sports Betting," their department believes total state revenue (TSR) will increase. This report breaks out the possible revenue impacts into three categories. They are Limited Availability, Moderate Availability, and Convenient Availability. For the purpose of this fiscal note response, their department utilized the Moderate Availability, due to the proposed legislation allowing sports wagering to occur in any of our casinos, and online. If online would have not been permitted, their department would have used the Limited Availability number, and if it were to be treated like the lottery, Convenient Availability would have been used.

$202,200,000 - $253,300,000 (Moderate Availability Adjusted Gross Receipts (AGR) Estimate per Oxford report)

$42,462,000 - $53,193,000 (21% tax imposed to general revenue)

They also provided the following information:

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: 22-074

BILL:

FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2022	FY 2023	FY 2024
Associate Customer Service Rep	1	$24,360		$24,604	$24,850
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**1**		**1**	**1**	**1**
Total Salaries			**$0**	**$24,604**	**$24,850**
Fringe Benefits				**$20,244**	**$20,327**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2022	FY 2023	FY 2024
Cubicle - w/ Work Surface	580	1	$6,800		$6,800	
Chair	580	1	$596		$596	
Calculator	580	1	$20		$20	
Desktop Comuter System/I	580	1	$1,371		$1,371	
Telephone, Cisco US Stanc	580	1	$525		$525	
sports betting database		1	$100,445		$100,445	
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$0	$109,757	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Expendable Supplies	190	1	$372		$381	$391
Recurring Expenses	480	1	$107		$110	$112
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$491	$503
TOTAL EQUIPMENT AND EXPENSE				$0	$110,248	$503
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2022	FY 2023	FY 2024
Salaries	$0	$24,604	$24,850
Fringe Benefits	$0	$20,244	$20,327
Equipment and Expense	$0	$110,248	$503
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$155,096**	**$45,680**
II. Fund Revenue Sources			
AGR 21% wagering tax		21,231,000-$26,596,500	$42,462,000-$53,193,000
Fines			
Administrative Sanctions			
Other Sources (Educational Fund)			
TOTAL FUND REVENUE - ALL SOURCES			
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**$21,075,904-$26,441,404**	**$42,416,3200-$53,147,320**

Officials from the **Department of Public Safety - Office of the Director** indicated this initiative petition has no impact for their department, Director's Office. The Missouri Gaming Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office.

Response from the Missouri State Highway Patrol:

The Missouri State Highway Patrol's principal concern is the potential number of licensed entities eligible to provide sports wagering. As written, Section 39(g) 1. states in part, "Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state." However, as written, it would allow any of the 341 currently licensed "entities" by the Missouri Gaming Commission to offer sports wagering.

As to the question of the affect to personnel for the Patrol's Gaming Division, it would depend on the number of licensees, locations, and level of regulatory/criminal enforcement expected. The Patrol would need at least one (1) additional FTE to conduct background investigations. An increase in the number of licensees and physical locations would be an unknown cost, depending on the staffing needs to complete background checks, enforcement of rules, and criminal investigations. In addition, there would be costs for the Patrol's Gaming Division, Enforcement Section, for training related to the changes in the Missouri Constitution.

Missouri State Highway Patrol Expected Costs (Gaming Funds 0286):
1. Training - 120 troopers X $200 training per trooper = $24,000
2. One (1) FTE:
    a. Salary & Fringe = $152,968
    b. Expense & Equipment (one-time costs) = $93,448
    c. Expense & Equipment (on going costs) = $22,139

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to sports gambling should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would appropriate fifty percent (50%) of the taxes collected from sports wagering to highways, roads and bridges. If adopted, each version could have a zero to substantial (but unquantified) positive fiscal impact on the Missouri Department of Transportation (MoDOT) and the Missouri Highways and Transportation Commission (MHTC). Their department has no specific estimate on revenues that may be generated.

Officials from the **Office of Administration** indicated this proposal relating to sports gambling should not fiscally impact their office.

This proposal would allow any entity licensed by the Missouri Gaming Commission to offer Sports Wagering in this state. The proposal further imposes a wagering tax of 21% on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

Budget & Planning defers to the Missouri Gaming Commission for an estimate of increased revenues. This proposal will not affect total state revenue or Article X, Sections 17 and 18(e).

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article III, has no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate $5,000 per year in amusement license revenue as well as $50,000 in sales tax revenue. No additional costs. They estimated the $50,000 from other economic sales activity due to the overall legalization of sports gambling, not from the wagering tax. They see the wagering tax as in addition to existing sales taxes and due to the State to be split 50/50 for education and state highways, unless provided future information otherwise (such as State grants to local governments for highways/etc.).

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition proposing to amend Article III, version 7.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the proposed proposition would allow for sports wagering within the state and impose a sports wagering tax of 21% upon the adjusted gross receipts received from sports wagering by a licensed entity. Of the tax imposed, 50% would be allocated to a fund to support educational institutions (pre-K thru 12th grade) and 50% would be allocated for construction and repair or maintenance of highways, roads, or bridges.

While it can be anticipated that the majority of sports wagering activity would occur over the internet, the petition contemplates licensing for sports wagering on excursion gambling boats, sports and entertainment districts as well as internet based sports wagering platforms. Under existing gaming laws RSMo. 313.820 and 313.822, the City of St. Louis as a home dock city receives one half of the state's $2 admission fee and 10% of the state's 21% tax on adjusted gross receipts from its current gaming facilities. The proposed petition does not provide for an allocation of sports wagering revenues to the local home dock city. Thus to any extent that sports wagering becomes a growing share of gambling boat gaming activity, the city would see a reduction in revenues from gaming. Whether this potential loss can be offset from allocations from the aforementioned state funds is not clear.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri System** indicated they believe that this legislation will result in additional cost related to increased monitoring, training, and educational requirements. All previous versions of bills have included sports betting on college sports and they would be surprised if any bill put forward in Missouri would not as virtually every state has to some extent. Even if collegiate sports were excluded from any bill that passed, there would still likely be some increased costs in those areas simply because it would still be prohibited by the National Collegiate Athletic Association (NCAA) for their student-athletes and staff to bet on sports at any level, and they would now have the ability to do so in the state, on their phones, etc. However, it would not likely be as significant a financial impact as it would if betting were allowed on college sports.

Officials from the **State Auditor's office** indicated this proposal would have no fiscal impact on their office. Any impact can be absorbed through current appropriations.

Officials from the **Missouri Gaming Commission** (MGC) indicated:

This proposal will also affect the Missouri State Highway Patrol, the Missouri Department of Revenue, and the Missouri Department of Mental Health.

They anticipate licensees to pay various fees to the MGC in order to regulate and manage sports wagering in Missouri. It also imposes certain taxes be paid by licensees based on their adjusted gross revenue.

If this initiative petition passes, they estimate needing five new full-time equivalent positions, which would result in an initial cost to the MGC of $547,266.90 (including salary, fringe, supplies, equipment, and travel/lodging related to job performance of those additional employees), in addition to approximately $797,479.38, which represents 2.5% of the MGC existing budget each year (the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering) for a total initial cost of $1,344,706.27. Additional costs included in this estimate may also encompass those associated with the development and implementation of responsible gambling programs and consumer education campaigns. The total annual ongoing personnel cost, after the first year, is estimated to be $1,325,281.17.

The MGC and the Missouri State Highway Patrol (MSHP) currently have a Memorandum of Understanding (MOU) in place which states that the MSHP will provide background and criminal and regulatory investigation and enforcement support to the MGC to assist it in carrying out its duties, which could result in additional costs.

They estimate a total of 18 applicants for sports wagering licenses, to include the 13 current gambling boats and five sportsbook providers that would offer the platform for sportsbook wagering; the casinos could utilize the same sportsbook providers.

Based on the number of applicants, they estimate collection of fees between $1.8 and $4.5 million the first year up to $2.65 to $5.95 million by the fifth year of operation. The fees

would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MGC. The estimated range of fees comes from the American Gaming Association's (AGA) State of the States 2021 report,[1] which range from $0 to $10 million. The assumption is that the states with $0 fees have a dedicated funding source other than the fees received.

This proposal sets the wagering tax assessed on the adjusted gross receipts (AGR) received from sports wagering conducted by a licensed entity at 21%. AGR is calculated by starting with total revenue minus winnings, minus voided wagers and uncollectible receivables. They estimated Missouri's licensees' total revenue to be $146,437,962. They then subtracted an estimated amount (2% of total revenue) for uncollectible receivables, leaving an AGR of $143,509,203. Based on that amount, the MGC estimates the total estimated tax on AGR to be $30,136,932.58 each year, the revenue from which would be equally divided between pre-K through 12th grade educational institution and highways, roads, and bridge funding.

The annual total AGR for Missouri is estimated based on the State of Mississippi's sports wagering totals, minus uncollectibles and fees. Mississippi's Total Revenue from sports betting is the actual total revenue amounts from October 2019 through September 2021.[2] They then determined Mississippi's sports betting revenue was 2.50% of its total gaming revenue. This was calculated by taking $53,631,014 and dividing by $2,141,840,000 ($53,631,014 / $2,141,840,000 =.0250). They then could assume Missouri's sports betting revenue would also be 2.50% of Missouri's total gaming revenue of $1,754,470,000 ($1,754,470,000 x 2.50% = $43,931,389). Mississippi sports betting is limited to bets placed in person at the casinos. They assume that allowing online wagering will significantly increase revenue. Based on the experience in other states, including Pennsylvania and New Jersey, they made the assumption that the estimated $43 million calculated for wagers placed in person at casinos would comprise approximately 30% of the adjusted gross receipts. Therefore, sports betting revenue would be comprised of 70% mobile wagering and 30% retail wagering if the law would allow mobile wagers to be placed (($43,931,389 x 70%) / 30%) = $102,506,572 = additional revenue).

They presume the regulation of sports wagering as contemplated by the proposal would allow for internet-based sports wagering platforms (i.e., mobile sports wagering). If that is not the proposal's intent, then they would anticipate a significant negative impact on overall revenue and AGR as a result.

They assume the revenue from sports wagering will be significantly less based on the language of this proposal which limits sports wagering to "wagering on professional athletic or sports events." Several states allow sports wagering on college events, including

[1] The AGA State of the States 2021 report can be accessed at State of the States 2021 - American Gaming Association (https://www.americangaming.org/resources/state-of-the-states-2021/), specifically pages 1-9, 18, and 64-66.

[2] The State of Mississippi's Gaming Commission reports MGC used to calculate their amounts can be accessed at http://www.msgamingcommission.com/index.php/reports/monthly_reports.

the National Collegiate Athletic Association (NCAA) Men's Basketball Championships ("March Madness") and the NCAA Men's Football Championship Bowl Games, in addition to professional sports.

They also provided the following information:

Sports Wagering

Mobile wagers allowed

Position Title	Number of FTE	Annual Salary	Annual Fringes (33.12% plus $14,048)	IT Equipment (one time)	IT Equipment (ongoing)	Desk (one time)	Chair (one time)	File Cabinet (one time)	Calculator (one time)	Office Supplies (ongoing)	Voice/Data Wiring (one time)	Voice/Data (ongoing)	Annual Travel Expenses Related to Job Performance (ongoing)	TOTAL	Second Year and Ongoing
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Program Coordinator	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Admin Support Professional-Lic	**1**	$ 39,469	$ 27,120.13	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 81,891.51**	**$ 78,006.49**
Senior Regulatory Auditor	**1**	$ 55,451	$ 32,413.37	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 103,166.75**	**$ 99,281.73**
TOTAL	**5**	**$ 300,837.59**	**$ 169,877.41**	**$ 8,230.10**	**$ 2,056.80**	**$ 3,005.00**	**$ 3,595.00**	**$ 2,995.00**	**$ 100.00**	**$ 1,860.00**	**$ 1,500.00**	**$ 2,100.00**	**$ 51,070.00**	**$ 547,226.90**	**$ 527,801.80**
								Add additional MGC expense (from Sports Wagering Cost tab):						**$ 797,479.38**	**$ 797,479.38**
								Total estimated annual cost to MGC:						**$ 1,344,706.27**	**$ 1,325,281.17**

Revenue Streams[1]	Number of Applicants or Holders of Sports Wagering AGR[2]	Fee Amount[3]	1st Year	2nd Year	3rd Year	4th Year	5th Year	Fund to Deposit
Certificate of Authority Application Fee (Initially) -Casino	13	100,000-250,000	1,300,000-3,250,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Certificate Holder Administration Fee (Annual after the first year) -Casino	13	75,000-150,000	$ -	975,000-1,950,000	975,000-1,950,000	975,000-1,950,000	975,000-1,950,000	Gaming Commission Fund
Certificate Holder Reinvestigation Fee (in the 5th year after sports wagering commenced and each 5th year thereafter)-Casino	13	100,000-250,000	$ -	$ -	$ -	$ -	1,300,000-3,250,000	Gaming Commission Fund
Sports Wagering Platform License Application Fee (Initially)-Sportsbook Provider	5	100,000-250,000	500,000-1,250,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Sports Wagering Platform License Annual Renewal Fee (Annual after the first year)-Sportsbook Provider	5	75,000-150,000	$ -	375,000-750,000	375,000-750,000	375,000-750,000	375,000-750,000	Gaming Commission Fund
TOTAL FEES COLLECTED[4]			**1,800,000-4,500,000**	**1,350,000-2,700,000**	**1,350,000-2,700,000**	**1,350,000-2,700,000**	**2,650,000-5,950,000**	

[1] Note: The above collected fees would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MO Gaming Commission, which includes the MSHP Gaming Division expenses.

[2] The Number of Applicants assumes all 13 casinos will apply for a Certificate of Authority. We estimate that at least five (5) sportsbook providers will apply for a Sports Wagering Platform License. The casinos may offer more than one sportsbook provider option.

[3] The range of fee amounts listed comes from AGA's State of the States 2021 report (see tab called 'Other States Fees'). The fees listed on AGA's report range from zero dollars to $10 million. The assumption is that the states with zero dollar fees have a dedicated funding source other than the fees received.

[4] Total Fees Collected are estimates only and are based on the assumption that all casinos and sportbook providers are being approved and licensed at the same time.

MGC Approps	FY 22 Budget		
Appropriation 2990 MGC PS	$ 15,329,912.00	2.50%	$ 383,247.80
Appropriation 2991 MGC E&E	$ 1,731,187.00	2.50%	$ 43,279.68
Appropriation T285 Work Comp	$ 7,323.00	2.50%	$ 183.08
Appropriation T293 OASDHI	$ 1,213,220.00	2.50%	$ 30,330.50
Appropriation T297 MGC Ret	$ 3,448,696.00	2.50%	$ 86,217.40
Appropriation T304 MGC MSHP	$ 2,374,625.00	2.50%	$ 59,365.63
Appropriation T692 Cost Alloc	$ 437,328.00	2.50%	$ 10,933.20
Appropriation 1542 MSHP PS Fringe	$ 7,089,567.00	2.50%	$ 177,239.18
Appropriation 1543 MSHP E&E Fringe	$ 267,317.00	2.50%	$ 6,682.93
	$ 31,899,175.00		$ 797,479.38

Besides the FTE positions and additional costs reflected in the fiscal note, MGC also estimates an additional cost of approximately $797,479 (represents 2.5% of MGC existing budget) each year. $797,479 represents the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering.

Alixandra S. Cossette, Attorney, Stinson LLP provided the following information:

STINSON

Alixandra S. Cossette
ASSOCIATE
DIRECT: 573.556.3612
OFFICE: 573.636.6263
alixandra.cossette@stinson.com

November 5, 2021

Via Electronic Mail to: moaudit@auditor.mo.gov

The Honorable Nicole R. Galloway, CPA
Missouri State Auditor's Office
P.O. Box 869
Jefferson City, Missouri 65102

Re: Initiative Petition 2022-074

Dear Auditor Galloway:

Pursuant to Section 116.175, RSMo, I hereby submit this statement of fiscal impact to aid you and your office in estimating the fiscal impact of Initiative Petition 2022-074. Initiative Petition 2022-074 authorizes sports wagering in Missouri and taxes the adjusted gross receipts of those wagers at a tax rate of 21%. These tax revenues will be split with 50% of the revenues to be appropriated for pre-kindergarten through twelfth grade educational institutions and 50% of the revenue to be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

The fiscal impact described herein has been extrapolated based on the information provided by the Committee on Legislative Research, Oversight Division in fiscal notes for Senate Committee Substitute for Senate Bill 98 (2021), Senate Bill 217 (2021), and Senate Bill 256 (2021).

The Oversight Division based its estimates on information provided by the Missouri Gaming Commission. The Gaming Commission extrapolated from the experience of the state of Mississippi with sports wagering. The Gaming Commission determined that Mississippi's annual revenue from sports wagering was 1.87% of its total revenue from gaming between November 2018 and October 2020.

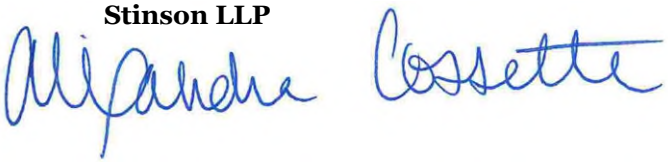
Assuming that same rate of 1.87% of total annual gaming revenue, the Gaming Commission assumed Missouri's sports wagering revenue would also be 1.87% of total gaming revenue in Missouri. Missouri's total annual gaming revenue is $1,754,470,000. 1.87% of that total is $32,808,589. However, Mississippi only allows wagers to be placed at casinos. In making fiscal estimates, the Gaming Commission assumed that allowing online wagering would significantly increase revenue. Considering experiences in other states, including Pennsylvania and New Jersey, the Gaming Commission assumed that the estimated $32 million calculated for wagers placed in person at casinos would comprise approximately 30% of the annual adjusted gross receipts. Therefore, the additional 70% of revenues would be from mobile wagering or approximately $76,553,374 annually. Therefore, total annual revenue from sports wagering would be $109,361,963.

The initiative petition imposes a tax rate of 21% on these adjusted gross receipts. Based on a tax rate of 21%, tax revenues would be $22,966,012.20 annually.

This analysis indicates that this initiative petition will ensure additional revenues for education and infrastructure. Therefore, I advise you to summarize the annual revenues as $22,966,012 to "unknown" since that is the most accurate description of the overall fiscal impact.

Sincerely,

Stinson LLP



Alixandra S. Cossette

ASC:

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities are estimated to have one-time costs of $246,000, ongoing costs of at least $1.5 million annually, initial revenues of $1.8 million to $4.5 million, and ongoing revenues of at least $24 million to $55 million annually. Local governmental entities estimate ongoing revenues of at least $55,000 annually.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 27, 2021

RECEIVED
OCT 27 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Alixandra Cossette regarding a proposed constitutional amendment to Article III, version 6 (2022-073)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Alixandra Cossette on October 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

RECEIVED
2021 OCT 27 AM 10:37

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures)

Printed Name of Affiant

Street Address of Affiant

City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary

Address of Notary

(Seal)

22-073

NOTICE: The proposed amendment revises Article III of the Constitution by adopting one new section to be known as Article III, Section 39(g).

Be it resolved by the people of the state of Missouri that the Constitution be amended as follows:

Section A. Article III of the Constitution is revised by adopting one new Section to be known as Article III, Section 39(g) to read as follows:

Section 39(g) 1. Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state. Sports Wagering means wagering on professional athletic or sporting events.

2. The Missouri Gaming Commission shall promulgate rules to regulate Sports Wagering including, but not limited to:

(a) Requirements that licensees cooperate with investigations conducted by law enforcement agencies or professional sports leagues; and

(b) Standards requiring the use of official league data to determine the outcome of certain types of wagers on a professional athletic or sporting event.

3. (a) Notwithstanding any other provision of law, including Section 39(d), to the contrary, a wagering tax of 6.75 percent is imposed on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from such tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

(b) The state auditor shall perform an annual audit of the revenues received and appropriated pursuant to this section to ensure they are being used only for authorized purposes. The state auditor shall make such audit available to the public, the governor, and the general assembly.

(c) The additional revenue provided by this section shall not be part of the "total state revenue" within the meaning of Article X, Sections 17 and 18. The expenditure of this additional revenue shall not be an "expense of state government" under Article X, Section 20.

4. Notwithstanding any other provision of law, including Article III, Section 39(9), to the contrary, the general assembly may enact laws consistent with this section.

5. All provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-073)

Subject

Initiative petition from Alixandra Cossette regarding a proposed constitutional amendment to Article III. (Received October 27, 2021)

Date

November 16, 2021

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **State Auditor's office,** and the **Missouri Gaming Commission.**

Alixandra S. Cossette, Attorney, Stinson LLP provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that they could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated this initiative petition may impact revenues received from tax imposed on Sports Wagering but their department has no means to calculate the amount of potential impact.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated their department assumes the increase in gambling opportunities will increase the number of individuals who voluntarily seek treatment for a gambling problem. However, the bill does not mandate that any individual receive treatment and treatment will remain voluntary. Therefore, they assume that expenditures cannot exceed the balance of the Compulsive Gamblers fund and no State General Revenue beyond that balance will be expended.

In fiscal year (FY) 21, their department served approximately 71 consumers through compulsive gambling (CG) treatment services with an average cost of $1,230 per consumer for a total of $87,330.

If the number of consumers served triples, they estimate treatment for 213 consumers with an average cost of $1,230 per treatment episode for a total treatment cost of $261,990. Currently, they have eleven certified compulsive gambling treatment providers; this number would likely need to increase over time along with the need for additional compulsive gambling counselors. They estimate 25 new compulsive gambling counselors will be needed throughout the state, with initial cost for training new counselors estimated at $160 per person for a total of $4,000 for FY 23.

If additional advertising is needed, their department anticipates annual cost for advertising with public service announcements for help with compulsive gambling at $166,400. Total cost to their department would be estimated at $360,325 in FY 23. For FY 24 and beyond, the amount would increase to $432,390 or more based upon the need for compulsive gambling services.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article III, version 6.

Officials from the **Department of Revenue** indicated this is an initiative petition that would go to the vote of the people at the November 2022 general election. If this is not adopted by the people, this would not have a fiscal impact.

Should this be adopted at the November 2022 election, by the time certification of the election occurs, it is assumed this constitutional amendment would have a January 1, 2023 effective date.

This proposal in Section 3.(a) assesses a wagering tax of 6.75% on the adjusted gross receipts received from sports wagering conducted by licensed entities. This proposal states that 50% of the revenue received from this tax is to be appropriated to support pre-kindergarten through 12th grade educational institutions and 50% of the revenue is to be appropriated for the construction, repair or maintenance of highways, roads or bridges.

This proposal does not specify which organization the Department of Revenue or the Missouri Gaming Commission is to collect this tax. Their department for purposes of the fiscal note will assume that they will be required to collect this tax. For their department to collect the tax they will need 1 Associate Customer Service Representative and creation of a new tax collection database. The costed associated with the full-time equivalent (FTE) employee are:

2023 -$45,339
2024 -$45,680

The Office of Administration - Information Technology Services Division (ITSD) anticipates the creation of a new sports betting tax collection database for their department.

ITSD - DOR							
Bill Number	HB 730	FN #	1112H.02I				
Bill Section(s)	313.1021.						
Application Name:	New System - Sports Betting Tax				**FY2022**	**FY2023**	**FY2024**
IT Consultants		**On-going Yes/No**	**Rate**	**Hours**	**$**	**$**	**$**
Requirements Gathering			95	96	9,120	-	-
Analysis			95	48	4,560	-	-
Design			95	48	4,560	-	-
Development			95	675	64,125	-	-
Test			95	96	9,120	-	-
Implementation			95	16	1,520	-	-
Project Management			95	78.32	7,440	-	-
On-going support			95		-	-	-
Section Total IT Consultants:			95	1,057.32	100,445	-	-

This proposal fails to identify a fund for this tax revenue to be deposited into or the specific funds that are to receive the revenue. Therefore, for the purpose of the fiscal note, their department assumes the revenue will be deposited into the General Revenue Fund.

Using the Oxford Economics report titled "Economic Impact of Legalized Sports Betting," their department believes total state revenue (TSR) will increase. This report breaks out the possible revenue impacts into three categories. They are Limited Availability, Moderate Availability, and Convenient Availability. For the purpose of this fiscal note response, their department utilized the Moderate Availability, due to the proposed legislation allowing sports wagering to occur in any of our casinos, and online. If online would have not been permitted, their department would have used the Limited Availability number, and if it were to be treated like the lottery, Convenient Availability would have been used.

$202,200,000 - $253,300,000 (Moderate Availability Adjusted Gross Receipts (AGR) Estimate per Oxford report)

$13,648,500 - $17,097,750 (6.75% tax imposed to general revenue)

They also provided the following information:

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: 22-073

BILL:

FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2022	FY 2023	FY 2024
Associate Customer Service Rep	1	$24,360		$24,604	$24,850
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**1**		**1**	**1**	**1**
Total Salaries			**$0**	**$24,604**	**$24,850**
Fringe Benefits				**$20,244**	**$20,327**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2022	FY 2023	FY 2024
Cubicle - w/ Work Surface	580	1	$6,800		$6,800	
Chair	580	1	$596		$596	
Calculator	580	1	$20		$20	
Desktop Comuter System/I	580	1	$1,371		$1,371	
Telephone, Cisco US Stanc	580	1	$525		$525	
sports betting database		1	$100,445		$100,445	
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$0	$109,757	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Expendable Supplies	190	1	$372		$381	$391
Recurring Expenses	480	1	$107		$110	$112
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$491	$503
TOTAL EQUIPMENT AND EXPENSE				$0	$110,248	$503
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2022	FY 2023	FY 2024
Salaries	$0	$24,604	$24,850
Fringe Benefits	$0	$20,244	$20,327
Equipment and Expense	$0	$110,248	$503
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$155,096**	**$45,680**
II. Fund Revenue Sources			
AGR 21% wagering tax		$6,824,250-$8,548,875	$13,648,500-$17,097,750
Fines			
Administrative Sanctions			
Other Sources (Educational Fund)			
TOTAL FUND REVENUE - ALL SOURCES			
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**$6,669,154-$8,393,779**	**$13,602,820-$17,052,070**

Officials from the **Department of Public Safety - Office of the Director** indicated this initiative petition has no impact for their department, Director's Office. The Missouri Gaming Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office.

Response from the Missouri State Highway Patrol:

The Missouri State Highway Patrol's principal concern is the potential number of licensed entities eligible to provide sports wagering. As written, Section 39(g) 1. states in part, "Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state." However, as written, it would allow any of the 341 currently licensed "entities" by the Missouri Gaming Commission to offer sports wagering.

As to the question of the affect to personnel for the Patrol's Gaming Division, it would depend on the number of licensees, locations, and level of regulatory/criminal enforcement expected. The Patrol would need at least one (1) additional FTE to conduct background investigations. An increase in the number of licensees and physical locations would be an unknown cost, depending on the staffing needs to complete background checks, enforcement of rules, and criminal investigations. In addition, there would be costs for the Patrol's Gaming Division, Enforcement Section, for training related to the changes in the Missouri Constitution.

Missouri State Highway Patrol Expected Costs (Gaming Funds 0286):
1. Training - 120 troopers X $200 training per trooper = $24,000
2. One (1) FTE:
    a. Salary & Fringe = $152,968
    b. Expense & Equipment (one-time costs) = $93,448
    c. Expense & Equipment (on going costs) = $22,139

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to sports gambling should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would appropriate fifty percent (50%) of the taxes collected from sports wagering to highways, roads and bridges. If adopted, each version could have a zero to substantial (but unquantified) positive fiscal impact on the Missouri Department of Transportation (MoDOT) and the Missouri Highways and Transportation Commission (MHTC). Their department has no specific estimate on revenues that may be generated.

Officials from the **Office of Administration** indicated this proposal relating to sports gambling should not fiscally impact their office.

This proposal would allow any entity licensed by the Missouri Gaming Commission to offer Sports Wagering in this state. The proposal further imposes a wagering tax of 6.75% on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

Budget & Planning defers to the Missouri Gaming Commission for an estimate of increased revenues. This proposal will not affect total state revenue or Article X, Sections 17 and 18(e).

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article III, has no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate $5,000 per year in amusement license revenue as well as $50,000 in sales tax revenue. No additional costs. They estimated the $50,000 from other economic sales activity due to the overall legalization of sports gambling, not from the wagering tax. They see the wagering tax as in addition to existing sales taxes and due to the State to be split 50/50 for education and state highways, unless provided future information otherwise (such as State grants to local governments for highways/etc.).

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition proposing to amend Article III, version 6.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the proposed proposition would allow for sports wagering within the state and impose a sports wagering tax of 6.75% upon the adjusted gross receipts received from sports wagering by a licensed entity. Of the tax imposed, 50% would be allocated to a fund to support educational institutions (pre-K thru 12th grade) and 50% would be allocated for construction and repair or maintenance of highways, roads, or bridges.

While it can be anticipated that the majority of sports wagering activity would occur over the internet, the petition contemplates licensing for sports wagering on excursion gambling boats, sports and entertainment districts as well as internet based sports wagering platforms. Under existing gaming laws RSMo. 313.820 and 313.822, the City of St. Louis as a home dock city receives one half of the state's $2 admission fee and 10% of the state's 21% tax on adjusted gross receipts from its current gaming facilities. The proposed petition does not provide for an allocation of sports wagering revenues to the local home dock city. Thus to any extent that sports wagering becomes a growing share of gambling boat gaming activity, the city would see a reduction in revenues from gaming. Whether this potential loss can be offset from allocations from the aforementioned state funds is not clear.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri System** indicated they believe that this legislation will result in additional cost related to increased monitoring, training, and educational requirements. All previous versions of bills have included sports betting on college sports and they would be surprised if any bill put forward in Missouri would not as virtually every state has to some extent. Even if collegiate sports were excluded from any bill that passed, there would still likely be some increased costs in those areas simply because it would still be prohibited by the National Collegiate Athletic Association (NCAA) for their student-athletes and staff to bet on sports at any level, and they would now have the ability to do so in the state, on their phones, etc. However, it would not likely be as significant a financial impact as it would if betting were allowed on college sports.

Officials from the **State Auditor's office** indicated this proposal would have no fiscal impact on their office. Any impact can be absorbed through current appropriations.

Officials from the **Missouri Gaming Commission** (MGC) indicated:

This proposal will also affect the Missouri State Highway Patrol, the Missouri Department of Revenue, and the Missouri Department of Mental Health.

They anticipate licensees to pay various fees to the MGC in order to regulate and manage sports wagering in Missouri. It also imposes certain taxes be paid by licensees based on their adjusted gross revenue.

If this initiative petition passes, they estimate needing five new full-time equivalent positions, which would result in an initial cost to the MGC of $547,266.90 (including salary, fringe, supplies, equipment, and travel/lodging related to job performance of those additional employees), in addition to approximately $797,479.38, which represents 2.5% of the MGC existing budget each year (the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering) for a total initial cost of $1,344,706.27. Additional costs included in this estimate may also encompass those associated with the development and implementation of responsible gambling programs and consumer education campaigns. The total annual ongoing personnel cost, after the first year, is estimated to be $1,325,281.17.

The MGC and the Missouri State Highway Patrol (MSHP) currently have a Memorandum of Understanding (MOU) in place which states that the MSHP will provide background and criminal and regulatory investigation and enforcement support to the MGC to assist it in carrying out its duties, which could result in additional costs.

They estimate a total of 18 applicants for sports wagering licenses, to include the 13 current gambling boats and five sportsbook providers that would offer the platform for sportsbook wagering; the casinos could utilize the same sportsbook providers.

Based on the number of applicants, they estimate collection of fees between $1.8 and $4.5 million the first year up to $2.65 to $5.95 million by the fifth year of operation. The fees

would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MGC. The estimated range of fees comes from the American Gaming Association's (AGA) State of the States 2021 report,[1] which range from $0 to $10 million. The assumption is that the states with $0 fees have a dedicated funding source other than the fees received.

This proposal sets the wagering tax assessed on the adjusted gross receipts (AGR) received from sports wagering conducted by a licensed entity at 6.75%. AGR is calculated by starting with total revenue minus winnings, minus voided wagers and uncollectible receivables. They estimated Missouri's licensees' total revenue to be $146,437,962. They then subtracted an estimated amount (2.5% of total revenue) for uncollectible receivables and to cover fees for using official league data, leaving an AGR of $142,777,013. Based on that amount, the MGC estimates the total estimated tax on AGR to be $9,637,448.38 each year, the revenue from which would be equally divided between pre-K through 12th grade educational institution and highways, roads, and bridge funding.

The annual total AGR for Missouri is estimated based on the State of Mississippi's sports wagering totals, minus uncollectibles and fees. Mississippi's Total Revenue from sports betting is the actual total revenue amounts from October 2019 through September 2021.[2] They then determined Mississippi's sports betting revenue was 2.50% of its total gaming revenue. This was calculated by taking $53,631,014 and dividing by $2,141,840,000 ($53,631,014 / $2,141,840,000 =.0250). They then could assume Missouri's sports betting revenue would also be 2.50% of Missouri's total gaming revenue of $1,754,470,000 ($1,754,470,000 x 2.50% = $43,931,389). Mississippi sports betting is limited to bets placed in person at the casinos. They assume that allowing online wagering will significantly increase revenue. Based on the experience in other states, including Pennsylvania and New Jersey, they made the assumption that the estimated $43 million calculated for wagers placed in person at casinos would comprise approximately 30% of the adjusted gross receipts. Therefore, sports betting revenue would be comprised of 70% mobile wagering and 30% retail wagering if the law would allow mobile wagers to be placed (($43,931,389 x 70%) / 30%) = $102,506,572 = additional revenue).

They presume the regulation of sports wagering as contemplated by the proposal would allow for internet-based sports wagering platforms (i.e., mobile sports wagering). If that is not the proposal's intent, then they would anticipate a significant negative impact on overall revenue and AGR as a result.

They assume the revenue from sports wagering will be significantly less based on the language of this proposal which limits sports wagering to "wagering on professional athletic or sports events." Several states allow sports wagering on college events, including

[1] The AGA State of the States 2021 report can be accessed at State of the States 2021 - American Gaming Association (https://www.americangaming.org/resources/state-of-the-states-2021/), specifically pages 1-9, 18, and 64-66.

[2] The State of Mississippi's Gaming Commission reports MGC used to calculate their amounts can be accessed at http://www.msgamingcommission.com/index.php/reports/monthly_reports.

the National Collegiate Athletic Association (NCAA) Men's Basketball Championships ("March Madness") and the NCAA Men's Football Championship Bowl Games, in addition to professional sports.

They also provided the following information:

Sports Wagering

Mobile wagers allowed

Position Title	Number of FTE	Annual Salary	Annual Fringes (33.12% plus $14,048)	IT Equipment (one time)	IT Equipment (ongoing)	Desk (one time)	Chair (one time)	File Cabinet (one time)	Calculator (one time)	Office Supplies (ongoing)	Voice/Data Wiring (one time)	Voice/Data (ongoing)	Annual Travel Expenses Related to Job Performance (ongoing)	TOTAL	Second Year and Ongoing
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Program Coordinator	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Admin Support Professional-Lic	**1**	$ 39,469	$ 27,120.13	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 81,891.51**	**$ 78,006.49**
Senior Regulatory Auditor	**1**	$ 55,451	$ 32,413.37	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 103,166.75**	**$ 99,281.73**
TOTAL	**5**	**$ 300,837.59**	**$ 169,877.41**	**$ 8,230.10**	**$ 2,056.80**	**$ 3,005.00**	**$ 3,595.00**	**$ 2,995.00**	**$ 100.00**	**$ 1,860.00**	**$ 1,500.00**	**$ 2,100.00**	**$ 51,070.00**	**$ 547,226.90**	**$ 527,801.80**
								Add additional MGC expense (from Sports Wagering Cost tab):						**$ 797,479.38**	**$ 797,479.38**
								Total estimated annual cost to MGC:						**$ 1,344,706.27**	**$ 1,325,281.17**

Revenue Streams[1]	Number of Applicants or Holders of Sports Wagering AGR[2]	Fee Amount[3]	1st Year	2nd Year	3rd Year	4th Year	5th Year	Fund to Deposit
Certificate of Authority Application Fee (Initially) -Casino	13	100,000-250,000	1,300,000-3,250,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Certificate Holder Administration Fee (Annual after the first year) -Casino	13	75,000-150,000	$ -	975,000-1,950,000	975,000-1,950,000	975,000-1,950,000	975,000-1,950,000	Gaming Commission Fund
Certificate Holder Reinvestigation Fee (in the 5th year after sports wagering commenced and each 5th year thereafter)-Casino	13	100,000-250,000	$ -	$ -	$ -	$ -	1,300,000-3,250,000	Gaming Commission Fund
Sports Wagering Platform License Application Fee (Initially)-Sportsbook Provider	5	100,000-250,000	500,000-1,250,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Sports Wagering Platform License Annual Renewal Fee (Annual after the first year)-Sportsbook Provider	5	75,000-150,000	$ -	375,000-750,000	375,000-750,000	375,000-750,000	375,000-750,000	Gaming Commission Fund
TOTAL FEES COLLECTED[4]			**1,800,000-4,500,000**	**1,350,000-2,700,000**	**1,350,000-2,700,000**	**1,350,000-2,700,000**	**2,650,000-5,950,000**	

[1] Note: The above collected fees would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MO Gaming Commission.

[2] The Number of Applicants assumes all 13 casinos will apply for a Certificate of Authority. We estimate that at least five (5) sportsbook providers will apply for a Sports Wagering Platform License. The casinos may offer more than one sportsbook provider option.

[3] The range of fee amounts listed comes from AGA's State of the States 2021 report (see tab called 'Other States Fees'). The fees listed on AGA's report range from zero dollars to $10 million. The assumption is that the states with zero dollar fees have a dedicated funding source other than the fees received.

[4] Total Fees Collected are estimates only and are based on the assumption that all casinos and sportbook providers are being approved and licensed at the same time.

MGC Approps	FY 22 Budget		
Appropriation 2990 MGC PS	$ 15,329,912.00	2.50%	$ 383,247.80
Appropriation 2991 MGC E&E	$ 1,731,187.00	2.50%	$ 43,279.68
Appropriation T285 Work Comp	$ 7,323.00	2.50%	$ 183.08
Appropriation T293 OASDHI	$ 1,213,220.00	2.50%	$ 30,330.50
Appropriation T297 MGC Ret	$ 3,448,696.00	2.50%	$ 86,217.40
Appropriation T304 MGC MSHP	$ 2,374,625.00	2.50%	$ 59,365.63
Appropriation T692 Cost Alloc	$ 437,328.00	2.50%	$ 10,933.20
Appropriation 1542 MSHP PS Fringe	$ 7,089,567.00	2.50%	$ 177,239.18
Appropriation 1543 MSHP E&E Fringe	$ 267,317.00	2.50%	$ 6,682.93
	$ 31,899,175.00		$ 797,479.38

Besides the FTE positions and additional costs reflected in the fiscal note, MGC also estimates an additional cost of approximately $797,479 (represents 2.5% of MGC existing budget) each year. $797,479 represents the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering.

Alixandra S. Cossette, Attorney, Stinson LLP provided the following information:

STINSON

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November 5, 2021

Via Electronic Mail to: moaudit@auditor.mo.gov

The Honorable Nicole R. Galloway, CPA
Missouri State Auditor's Office
P.O. Box 869
Jefferson City, Missouri 65102

Re: Initiative Petition 2022-073

Dear Auditor Galloway:

Pursuant to Section 116.175, RSMo, I hereby submit this statement of fiscal impact to aid you and your office in estimating the fiscal impact of Initiative Petition 2022-073. Initiative Petition 2022-073 authorizes sports wagering in Missouri and taxes the adjusted gross receipts of those wagers at a tax rate of 6.75%. These tax revenues will be split with 50% of the revenues to be appropriated for pre-kindergarten through twelfth grade educational institutions and 50% of the revenue to be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

The fiscal impact described herein has been extrapolated based on the information provided by the Committee on Legislative Research, Oversight Division in fiscal notes for Senate Committee Substitute for Senate Bill 98 (2021), Senate Bill 217 (2021), and Senate Bill 256 (2021).

The Oversight Division based its estimates on information provided by the Missouri Gaming Commission. The Gaming Commission extrapolated from the experience of the state of Mississippi with sports wagering. The Gaming Commission determined that Mississippi's annual revenue from sports wagering was 1.87% of its total revenue from gaming between November 2018 and October 2020.

Assuming that same rate of 1.87% of total annual gaming revenue, the Gaming Commission assumed Missouri's sports wagering revenue would also be 1.87% of total gaming revenue in Missouri. Missouri's total annual gaming revenue is $1,754,470,000. 1.87% of that total is $32,808,589. However, Mississippi only allows wagers to be placed at casinos. In making fiscal estimates, the Gaming Commission assumed that allowing online wagering would significantly increase revenue. Considering experiences in other states, including Pennsylvania and New Jersey, the Gaming Commission assumed that the estimated $32 million calculated for wagers placed in person at casinos would comprise approximately 30% of the annual adjusted gross receipts. Therefore, the additional 70% of revenues would be from mobile wagering or approximately $76,553,374 annually. Therefore, total annual revenue from sports wagering would be $109,361,963.

The initiative petition imposes a tax rate of 6.75% on these adjusted gross receipts. Based on a tax rate of 10%, tax revenues would be $7,381,932.50. annually.

This analysis indicates that this initiative petition will ensure additional revenues for education and infrastructure. Therefore, I advise you to summarize the annual revenues as $7,381,932.50. to “unknown” since that is the most accurate description of the overall fiscal impact.

Sincerely,

Stinson LLP



Alixandra S. Cossette

ASC:

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities are estimated to have one-time costs of $246,000, ongoing costs of at least $1.5 million annually, initial revenues of $1.8 million to $4.5 million, and ongoing revenues of at least $8 million to $19 million annually. Local governmental entities estimate ongoing revenues of at least $55,000 annually.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 27, 2021

RECEIVED
OCT 27 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Alixandra Cossette regarding a proposed constitutional amendment to Article III, version 5 (2022-072)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Alixandra Cossette on October 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

RECEIVED
2021 OCT 27 AM 10:36

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

22-072

NOTICE: The proposed amendment revises Article III of the Constitution by adopting one new section to be known as Article III, Section 39(g).

Be it resolved by the people of the state of Missouri that the Constitution be amended as follows:

Section A. Article III of the Constitution is revised by adopting one new Section to be known as Article III, Section 39(g) to read as follows:

Section 39(g) 1. Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state. Sports Wagering means wagering on professional athletic or sporting events.

2. The Missouri Gaming Commission shall promulgate rules to regulate Sports Wagering including, but not limited to:

(a) Requirements that licensees cooperate with investigations conducted by law enforcement agencies or professional sports leagues; and

(b) Standards requiring the use of official league data to determine the outcome of certain types of wagers on a professional athletic or sporting event.

3. (a) Notwithstanding any other provision of law, including Section 39(d), to the contrary, a wagering tax of 10 percent is imposed on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from such tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

(b) The state auditor shall perform an annual audit of the revenues received and appropriated pursuant to this section to ensure they are being used only for authorized purposes. The state auditor shall make such audit available to the public, the governor, and the general assembly.

(c) The additional revenue provided by this section shall not be part of the "total state revenue" within the meaning of Article X, Sections 17 and 18. The expenditure of this additional revenue shall not be an "expense of state government" under Article X, Section 20.

4. Notwithstanding any other provision of law, including Article III, Section 39(9), to the contrary, the general assembly may enact laws consistent with this section.

5. All provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-072)

Subject

Initiative petition from Alixandra Cossette regarding a proposed constitutional amendment to Article III. (Received October 27, 2021)

Date

November 16, 2021

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **State Auditor's office,** and the **Missouri Gaming Commission.**

Alixandra S. Cossette, Attorney, Stinson LLP provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that they could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated this initiative petition may impact revenues received from tax imposed on Sports Wagering but their department has no means to calculate the amount of potential impact.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated their department assumes the increase in gambling opportunities will increase the number of individuals who voluntarily seek treatment for a gambling problem. However, the bill does not mandate that any individual receive treatment and treatment will remain voluntary. Therefore, they assume that expenditures cannot exceed the balance of the Compulsive Gamblers fund and no State General Revenue beyond that balance will be expended.

In fiscal year (FY) 21, their department served approximately 71 consumers through compulsive gambling (CG) treatment services with an average cost of $1,230 per consumer for a total of $87,330.

If the number of consumers served triples, they estimate treatment for 213 consumers with an average cost of $1,230 per treatment episode for a total treatment cost of $261,990. Currently, they have eleven certified compulsive gambling treatment providers; this number would likely need to increase over time along with the need for additional compulsive gambling counselors. They estimate 25 new compulsive gambling counselors will be needed throughout the state, with initial cost for training new counselors estimated at $160 per person for a total of $4,000 for FY 23.

If additional advertising is needed, their department anticipates annual cost for advertising with public service announcements for help with compulsive gambling at $166,400. Total cost to their department would be estimated at $360,325 in FY 23. For FY 24 and beyond, the amount would increase to $432,390 or more based upon the need for compulsive gambling services.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article III, version 5.

Officials from the **Department of Revenue** indicated this is an initiative petition that would go to the vote of the people at the November 2022 general election. If this is not adopted by the people, this would not have a fiscal impact.

Should this be adopted at the November 2022 election, by the time certification of the election occurs, it is assumed this constitutional amendment would have a January 1, 2023 effective date.

This proposal in Section 3.(a) assesses a wagering tax of 10% on the adjusted gross receipts received from sports wagering conducted by licensed entities. This proposal states that 50% of the revenue received from this tax is to be appropriated to support pre-kindergarten through 12th grade educational institutions and 50% of the revenue is to be appropriated for the construction, repair or maintenance of highways, roads or bridges.

This proposal does not specify which organization the Department of Revenue or the Missouri Gaming Commission is to collect this tax. Their department for purposes of the fiscal note will assume that they will be required to collect this tax. For their department to collect the tax they will need 1 Associate Customer Service Representative and creation of a new tax collection database. The costed associated with the full-time equivalent (FTE) employee are:

2023 -$45,339
2024 -$45,680

The Office of Administration - Information Technology Services Division (ITSD) anticipates the creation of a new sports betting tax collection database for their department.

ITSD - DOR							
Bill Number	HB 730	FN #	1112H.02I				
Bill Section(s)	313.1021.						
Application Name:	New System - Sports Betting Tax				**FY2022**	**FY2023**	**FY2024**
IT Consultants		**On-going Yes/No**	**Rate**	**Hours**	**$**	**$**	**$**
Requirements Gathering			95	96	9,120	-	-
Analysis			95	48	4,560	-	-
Design			95	48	4,560	-	-
Development			95	675	64,125	-	-
Test			95	96	9,120	-	-
Implementation			95	16	1,520	-	-
Project Management			95	78.32	7,440	-	-
On-going support			95		-	-	-
Section Total IT Consultants:			95	1,057.32	100,445	-	-

This proposal fails to identify a fund for this tax revenue to be deposited into or the specific funds that are to receive the revenue. Therefore, for the purpose of the fiscal note, their department assumes the revenue will be deposited into the General Revenue Fund.

Using the Oxford Economics report titled "Economic Impact of Legalized Sports Betting," their department believes total state revenue (TSR) will increase. This report breaks out the possible revenue impacts into three categories. They are Limited Availability, Moderate Availability, and Convenient Availability. For the purpose of this fiscal note response, their department utilized the Moderate Availability, due to the proposed legislation allowing sports wagering to occur in any of our casinos, and online. If online would have not been permitted, their department would have used the Limited Availability number, and if it were to be treated like the lottery, Convenient Availability would have been used.

$202,200,000 - $253,300,000 (Moderate Availability Adjusted Gross Receipts (AGR) Estimate per Oxford report)

$20,220,000 - $25,330,000 (10% tax imposed to general revenue)

They also provided the following information:

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: 22-072

BILL:

FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2022	FY 2023	FY 2024
Associate Customer Service Rep	1	$24,360		$24,604	$24,850
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**1**		**1**	**1**	**1**
Total Salaries			**$0**	**$24,604**	**$24,850**
Fringe Benefits				**$20,244**	**$20,327**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2022	FY 2023	FY 2024
Cubicle - w/ Work Surface	580	1	$6,800		$6,800	
Chair	580	1	$596		$596	
Calculator	580	1	$20		$20	
Desktop Comuter System/I	580	1	$1,371		$1,371	
Telephone, Cisco US Stanc	580	1	$525		$525	
sports betting database		1	$100,445		$100,445	
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$0	$109,757	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Expendable Supplies	190	1	$372		$381	$391
Recurring Expenses	480	1	$107		$110	$112
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$491	$503
TOTAL EQUIPMENT AND EXPENSE				$0	$110,248	$503
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2022	FY 2023	FY 2024
Salaries	$0	$24,604	$24,850
Fringe Benefits	$0	$20,244	$20,327
Equipment and Expense	$0	$110,248	$503
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$155,096**	**$45,680**
II. Fund Revenue Sources			
AGR 21% wagering tax		$10,110,000-$12,665,000	$20,220,000-$25,330,000
Fines			
Administrative Sanctions			
Other Sources (Educational Fund)			
TOTAL FUND REVENUE - ALL SOURCES			
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**$9,954,904-$12,509,904**	**$20,174,320-$25,284,320**

Officials from the **Department of Public Safety - Office of the Director** indicated this initiative petition has no impact for their department, Director's Office. The Missouri Gaming Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office.

Response from the Missouri State Highway Patrol:

The Missouri State Highway Patrol's principal concern is the potential number of licensed entities eligible to provide sports wagering. As written, Section 39(g) 1. states in part, "Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state." However, as written, it would allow any of the 341 currently licensed "entities" by the Missouri Gaming Commission to offer sports wagering.

As to the question of the affect to personnel for the Patrol's Gaming Division, it would depend on the number of licensees, locations, and level of regulatory/criminal enforcement expected. The Patrol would need at least one (1) additional FTE to conduct background investigations. An increase in the number of licensees and physical locations would be an unknown cost, depending on the staffing needs to complete background checks, enforcement of rules, and criminal investigations. In addition, there would be costs for the Patrol's Gaming Division, Enforcement Section, for training related to the changes in the Missouri Constitution.

Missouri State Highway Patrol Expected Costs (Gaming Funds 0286):
1. Training - 120 troopers X $200 training per trooper = $24,000
2. One (1) FTE:
    a. Salary & Fringe = $152,968
    b. Expense & Equipment (one-time costs) = $93,448
    c. Expense & Equipment (on going costs) = $22,139

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to sports gambling should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would appropriate fifty percent (50%) of the taxes collected from sports wagering to highways, roads and bridges. If adopted, each version could have a zero to substantial (but unquantified) positive fiscal impact on the Missouri Department of Transportation (MoDOT) and the Missouri Highways and Transportation Commission (MHTC). Their department has no specific estimate on revenues that may be generated.

Officials from the **Office of Administration** indicated this proposal relating to sports gambling should not fiscally impact their office.

This proposal would allow any entity licensed by the Missouri Gaming Commission to offer Sports Wagering in this state. The proposal further imposes a wagering tax of 10% on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

Budget & Planning defers to the Missouri Gaming Commission for an estimate of increased revenues. This proposal will not affect total state revenue or Article X, Sections 17 and 18(e).

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article III, has no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate $5,000 per year in amusement license revenue as well as $50,000 in sales tax revenue. No additional costs. They estimated the $50,000 from other economic sales activity due to the overall legalization of sports gambling, not from the wagering tax. They see the wagering tax as in addition to existing sales taxes and due to the State to be split 50/50 for education and state highways, unless provided future information otherwise (such as State grants to local governments for highways/etc.).

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition proposing to amend Article III, version 5.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the proposed proposition would allow for sports wagering within the state and impose a sports wagering tax of 10% upon the adjusted gross receipts received from sports wagering by a licensed entity. Of the tax imposed, 50% would be allocated to a fund to support educational institutions (pre-K thru 12th grade) and 50% would be allocated for construction and repair or maintenance of highways, roads, or bridges.

While it can be anticipated that the majority of sports wagering activity would occur over the internet, the petition contemplates licensing for sports wagering on excursion gambling boats, sports and entertainment districts as well as internet based sports wagering platforms. Under existing gaming laws RSMo. 313.820 and 313.822, the City of St. Louis as a home dock city receives one half of the state's $2 admission fee and 10% of the state's 21% tax on adjusted gross receipts from its current gaming facilities. The proposed petition does not provide for an allocation of sports wagering revenues to the local home dock city. Thus to any extent that sports wagering becomes a growing share of gambling boat gaming activity, the city would see a reduction in revenues from gaming. Whether this potential loss can be offset from allocations from the aforementioned state funds is not clear.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri System** indicated they believe that this legislation will result in additional cost related to increased monitoring, training, and educational requirements. All previous versions of bills have included sports betting on college sports and they would be surprised if any bill put forward in Missouri would not as virtually every state has to some extent. Even if collegiate sports were excluded from any bill that passed, there would still likely be some increased costs in those areas simply because it would still be prohibited by the National Collegiate Athletic Association (NCAA) for their student-athletes and staff to bet on sports at any level, and they would now have the ability to do so in the state, on their phones, etc. However, it would not likely be as significant a financial impact as it would if betting were allowed on college sports.

Officials from the **State Auditor's office** indicated this proposal would have no fiscal impact on their office. Any impact can be absorbed through current appropriations.

Officials from the **Missouri Gaming Commission** (MGC) indicated:

This proposal will also affect the Missouri State Highway Patrol, the Missouri Department of Revenue, and the Missouri Department of Mental Health.

They anticipate licensees to pay various fees to the MGC in order to regulate and manage sports wagering in Missouri. It also imposes certain taxes be paid by licensees based on their adjusted gross revenue.

If this initiative petition passes, they estimate needing five new full-time equivalent positions, which would result in an initial cost to the MGC of $547,266.90 (including salary, fringe, supplies, equipment, and travel/lodging related to job performance of those additional employees), in addition to approximately $797,479.38, which represents 2.5% of the MGC existing budget each year (the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering) for a total initial cost of $1,344,706.27. Additional costs included in this estimate may also encompass those associated with the development and implementation of responsible gambling programs and consumer education campaigns. The total annual ongoing personnel cost, after the first year, is estimated to be $1,325,281.17.

The MGC and the Missouri State Highway Patrol (MSHP) currently have a Memorandum of Understanding (MOU) in place which states that the MSHP will provide background and criminal and regulatory investigation and enforcement support to the MGC to assist it in carrying out its duties, which could result in additional costs.

They estimate a total of 18 applicants for sports wagering licenses, to include the 13 current gambling boats and five sportsbook providers that would offer the platform for sportsbook wagering; the casinos could utilize the same sportsbook providers.

Based on the number of applicants, they estimate collection of fees between $1.8 and $4.5 million the first year up to $2.65 to $5.95 million by the fifth year of operation. The fees

would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MGC. The estimated range of fees comes from the American Gaming Association's (AGA) State of the States 2021 report,[1] which range from $0 to $10 million. The assumption is that the states with $0 fees have a dedicated funding source other than the fees received.

This proposal sets the wagering tax assessed on the adjusted gross receipts (AGR) received from sports wagering conducted by a licensed entity at 10%. AGR is calculated by starting with total revenue minus winnings, minus voided wagers and uncollectible receivables. They estimated Missouri's licensees' total revenue to be $146,437,962. They then subtracted an estimated amount (2.5% of total revenue) for uncollectible receivables and to cover fees for using official league data, leaving an AGR of $142,777,013. Based on that amount, the MGC estimates the total estimated tax on AGR to be $14,277,701.30 each year, the revenue from which would be equally divided between pre-K through 12th grade educational institution and highways, roads, and bridge funding.

The annual total AGR for Missouri is estimated based on the State of Mississippi's sports wagering totals, minus uncollectibles and fees. Mississippi's Total Revenue from sports betting is the actual total revenue amounts from October 2019 through September 2021.[2] They then determined Mississippi's sports betting revenue was 2.50% of its total gaming revenue. This was calculated by taking $53,631,014 and dividing by $2,141,840,000 ($53,631,014 / $2,141,840,000 =.0250). They then could assume Missouri's sports betting revenue would also be 2.50% of Missouri's total gaming revenue of $1,754,470,000 ($1,754,470,000 x 2.50% = $43,931,389). Mississippi sports betting is limited to bets placed in person at the casinos. They assume that allowing online wagering will significantly increase revenue. Based on the experience in other states, including Pennsylvania and New Jersey, they made the assumption that the estimated $43 million calculated for wagers placed in person at casinos would comprise approximately 30% of the adjusted gross receipts. Therefore, sports betting revenue would be comprised of 70% mobile wagering and 30% retail wagering if the law would allow mobile wagers to be placed (($43,931,389 x 70%) / 30%) = $102,506,572 = additional revenue).

They presume the regulation of sports wagering as contemplated by the proposal would allow for internet-based sports wagering platforms (i.e., mobile sports wagering). If that is not the proposal's intent, then they would anticipate a significant negative impact on overall revenue and AGR as a result.

They assume the revenue from sports wagering will be significantly less based on the language of this proposal which limits sports wagering to "wagering on professional athletic or sports events." Several states allow sports wagering on college events, including

[1] The AGA State of the States 2021 report can be accessed at State of the States 2021 - American Gaming Association (https://www.americangaming.org/resources/state-of-the-states-2021/), specifically pages 1-9, 18, and 64-66.

[2] The State of Mississippi's Gaming Commission reports MGC used to calculate their amounts can be accessed at http://www.msgamingcommission.com/index.php/reports/monthly_reports.

the National Collegiate Athletic Association (NCAA) Men's Basketball Championships ("March Madness") and the NCAA Men's Football Championship Bowl Games, in addition to professional sports.

They also provided the following information:

Sports Wagering

Mobile wagers allowed

Position Title	Number of FTE	Annual Salary	Annual Fringes (33.12% plus $14,048)	IT Equipment (one time)	IT Equipment (ongoing)	Desk (one time)	Chair (one time)	File Cabinet (one time)	Calculator (one time)	Office Supplies (ongoing)	Voice/Data Wiring (one time)	Voice/Data (ongoing)	Annual Travel Expenses Related to Job Performance (ongoing)	TOTAL	Second Year and Ongoing
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Program Coordinator	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Admin Support Professional-Lic	**1**	$ 39,469	$ 27,120.13	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 81,891.51**	**$ 78,006.49**
Senior Regulatory Auditor	**1**	$ 55,451	$ 32,413.37	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 103,166.75**	**$ 99,281.73**
TOTAL	**5**	**$ 300,837.59**	**$ 169,877.41**	**$ 8,230.10**	**$ 2,056.80**	**$ 3,005.00**	**$ 3,595.00**	**$ 2,995.00**	**$ 100.00**	**$ 1,860.00**	**$ 1,500.00**	**$ 2,100.00**	**$ 51,070.00**	**$ 547,226.90**	**$ 527,801.80**
								Add additional MGC expense (from Sports Wagering Cost tab):						**$ 797,479.38**	**$ 797,479.38**
								Total estimated annual cost to MGC:						**$ 1,344,706.27**	**$ 1,325,281.17**

Revenue Streams[1]	Number of Applicants or Holders of Sports Wagering AGR [2]	Fee Amount [3]	1st Year	2nd Year	3rd Year	4th Year	5th Year	Fund to Deposit
Certificate of Authority Application Fee (Initially) -Casino	13	100,000-250,000	1,300,000-3,250,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Certificate Holder Administration Fee (Annual after the first year) -Casino	13	75,000-150,000	$ -	975,000-1,950,000	975,000-1,950,000	975,000-1,950,000	975,000-1,950,000	Gaming Commission Fund
Certificate Holder Reinvestigation Fee (in the 5th year after sports wagering commenced and each 5th year thereafter)-Casino	13	100,000-250,000	$ -	$ -	$ -	$ -	1,300,000-3,250,000	Gaming Commission Fund
Sports Wagering Platform License Application Fee (Initially)-Sportsbook Provider	5	100,000-250,000	500,000-1,250,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Sports Wagering Platform License Annual Renewal Fee (Annual after the first year)-Sportsbook Provider	5	75,000-150,000	$ -	375,000-750,000	375,000-750,000	375,000-750,000	375,000-750,000	Gaming Commission Fund
TOTAL FEES COLLECTED[4]			**1,800,000-4,500,000**	**1,350,000-2,700,000**	**1,350,000-2,700,000**	**1,350,000-2,700,000**	**2,650,000-5,950,000**	

[1] Note: The above collected fees would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MO Gaming Commission, which includes the MSHP Gaming Division expenses.

[2] The Number of Applicants assumes all 13 casinos will apply for a Certificate of Authority. We estimate that at least five (5) sportsbook providers will apply for a Sports Wagering Platform License. The casinos may offer more than one sportsbook provider option.

[3] The range of fee amounts listed comes from AGA's State of the States 2021 report (see tab called 'Other States Fees'). The fees listed on AGA's report range from zero dollars to $10 million. The assumption is that the states with zero dollar fees have a dedicated funding source other than the fees received.

[4] Total Fees Collected are estimates only and are based on the assumption that all casinos and sportbook providers are being approved and licensed at the same time.

MGC Approps	FY 22 Budget		
Appropriation 2990 MGC PS	$ 15,329,912.00	2.50%	$ 383,247.80
Appropriation 2991 MGC E&E	$ 1,731,187.00	2.50%	$ 43,279.68
Appropriation T285 Work Comp	$ 7,323.00	2.50%	$ 183.08
Appropriation T293 OASDHI	$ 1,213,220.00	2.50%	$ 30,330.50
Appropriation T297 MGC Ret	$ 3,448,696.00	2.50%	$ 86,217.40
Appropriation T304 MGC MSHP	$ 2,374,625.00	2.50%	$ 59,365.63
Appropriation T692 Cost Alloc	$ 437,328.00	2.50%	$ 10,933.20
Appropriation 1542 MSHP PS Fringe	$ 7,089,567.00	2.50%	$ 177,239.18
Appropriation 1543 MSHP E&E Fringe	$ 267,317.00	2.50%	$ 6,682.93
	$ 31,899,175.00		$ 797,479.38

Besides the FTE positions and additional costs reflected in the fiscal note, MGC also estimates an additional cost of approximately $797,479 (represents 2.5% of MGC existing budget) each year. $797,479 represents the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering.

Alixandra S. Cossette, Attorney, Stinson LLP provided the following information:

STINSON

Alixandra S. Cossette
ASSOCIATE
DIRECT: 573.556.3612
OFFICE: 573.636.6263
alixandra.cossette@stinson.com

November 5, 2021

Via Electronic Mail to: moaudit@auditor.mo.gov

The Honorable Nicole R. Galloway, CPA
Missouri State Auditor's Office
P.O. Box 869
Jefferson City, Missouri 65102

Re: Initiative Petition 2022-072

Dear Auditor Galloway:

Pursuant to Section 116.175, RSMo, I hereby submit this statement of fiscal impact to aid you and your office in estimating the fiscal impact of Initiative Petition 2022-072. Initiative Petition 2022-072 authorizes sports wagering in Missouri and taxes the adjusted gross receipts of those wagers at a tax rate of 10%. These tax revenues will be split with 50% of the revenues to be appropriated for pre-kindergarten through twelfth grade educational institutions and 50% of the revenue to be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

The fiscal impact described herein has been extrapolated based on the information provided by the Committee on Legislative Research, Oversight Division in fiscal notes for Senate Committee Substitute for Senate Bill 98 (2021), Senate Bill 217 (2021), and Senate Bill 256 (2021).

The Oversight Division based its estimates on information provided by the Missouri Gaming Commission. The Gaming Commission extrapolated from the experience of the state of Mississippi with sports wagering. The Gaming Commission determined that Mississippi's annual revenue from sports wagering was 1.87% of its total revenue from gaming between November 2018 and October 2020.

Assuming that same rate of 1.87% of total annual gaming revenue, the Gaming Commission assumed Missouri's sports wagering revenue would also be 1.87% of total gaming revenue in Missouri. Missouri's total annual gaming revenue is $1,754,470,000. 1.87% of that total is $32,808,589. However, Mississippi only allows wagers to be placed at casinos. In making fiscal estimates, the Gaming Commission assumed that allowing online wagering would significantly increase revenue. Considering experiences in other states, including Pennsylvania and New Jersey, the Gaming Commission assumed that the estimated $32 million calculated for wagers placed in person at casinos would comprise approximately 30% of the annual adjusted gross receipts. Therefore, the additional 70% of revenues would be from mobile wagering or approximately $76,553,374 annually. Therefore, total annual revenue from sports wagering would be $109,361,963.

The initiative petition imposes a tax rate of 10% on these adjusted gross receipts. Based on a tax rate of 10%, tax revenues would be $10,936,196.30 annually.

This analysis indicates that this initiative petition will ensure additional revenues for education and infrastructure. Therefore, I advise you to summarize the annual revenues as $10,936,196.30 to "unknown" since that is the most accurate description of the overall fiscal impact.

Sincerely,

Stinson LLP



Alixandra S. Cossette

ASC:

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities are estimated to have one-time costs of $246,000, ongoing costs of at least $1.5 million annually, initial revenues of $1.8 million to $4.5 million, and ongoing revenues of at least $12 million to $28 million annually. Local governmental entities estimate ongoing revenues of at least $55,000 annually.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 27, 2021

RECEIVED
OCT 27 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Alixandra Cossette regarding a proposed constitutional amendment to Article III, version 4 (2022-071)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Alixandra Cossette on October 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

RECEIVED
2021 OCT 27 AM 10:35

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

22-071

NOTICE: The proposed amendment revises Article III of the Constitution by adopting one new section to be known as Article III, Section 39(g).

Be it resolved by the people of the state of Missouri that the Constitution be amended as follows:

Section A. Article III of the Constitution is revised by adopting one new Section to be known as Article III, Section 39(g) to read as follows:

Section 39(g) 1. Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state. Sports Wagering means wagering on professional athletic or sporting events.

2. The Missouri Gaming Commission shall promulgate rules to regulate Sports Wagering including, but not limited to:

(a) Requirements that licensees cooperate with investigations conducted by law enforcement agencies or professional sports leagues; and

(b) Standards requiring the use of official league data to determine the outcome of certain types of wagers on a professional athletic or sporting event.

3. (a) Notwithstanding any other provision of law, including Section 39(d), to the contrary, a wagering tax of 21 percent is imposed on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from such tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

(b) The state auditor shall perform an annual audit of the revenues received and appropriated pursuant to this section to ensure that they are being used only for authorized purposes. The state auditor shall make such audit available to the public, the governor, and the general assembly.

(c) The additional revenue provided by this section shall not be part of the "total state revenue" within the meaning of Article X, Sections 17 and 18. The expenditure of this additional revenue shall not be an "expense of state government" under Article X, Section 20.

4. Notwithstanding any other provision of law, including Article III, Section 39(9), to the contrary, the general assembly may enact laws consistent with this section.

5. All provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-071)

Subject

Initiative petition from Alixandra Cossette regarding a proposed constitutional amendment to Article III. (Received October 27, 2021)

Date

November 16, 2021

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **State Auditor's office,** and the **Missouri Gaming Commission.**

Alixandra S. Cossette, Attorney, Stinson LLP provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that they could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated this initiative petition may impact revenues received from tax imposed on Sports Wagering but their department has no means to calculate the amount of potential impact.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated their department assumes the increase in gambling opportunities will increase the number of individuals who voluntarily seek treatment for a gambling problem. However, the bill does not mandate that any individual receive treatment and treatment will remain voluntary. Therefore, they assume that expenditures cannot exceed the balance of the Compulsive Gamblers fund and no State General Revenue beyond that balance will be expended.

In fiscal year (FY) 21, their department served approximately 71 consumers through compulsive gambling (CG) treatment services with an average cost of $1,230 per consumer for a total of $87,330.

If the number of consumers served triples, they estimate treatment for 213 consumers with an average cost of $1,230 per treatment episode for a total treatment cost of $261,990. Currently, they have eleven certified compulsive gambling treatment providers; this number would likely need to increase over time along with the need for additional compulsive gambling counselors. They estimate 25 new compulsive gambling counselors will be needed throughout the state, with initial cost for training new counselors estimated at $160 per person for a total of $4,000 for FY 23.

If additional advertising is needed, their department anticipates annual cost for advertising with public service announcements for help with compulsive gambling at $166,400. Total cost to their department would be estimated at $360,325 in FY 23. For FY 24 and beyond, the amount would increase to $432,390 or more based upon the need for compulsive gambling services.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article III, version 4.

Officials from the **Department of Revenue** indicated this is an initiative petition that would go to the vote of the people at the November 2022 general election. If this is not adopted by the people, this would not have a fiscal impact.

Should this be adopted at the November 2022 election, by the time certification of the election occurs, it is assumed this constitutional amendment would have a January 1, 2023 effective date.

This proposal in Section 3.(a) assesses a wagering tax of 21% on the adjusted gross receipts received from sports wagering conducted by licensed entities. This proposal states that 50% of the revenue received from this tax is to be appropriated to support pre-kindergarten through 12th grade educational institutions and 50% of the revenue is to be appropriated for the construction, repair or maintenance of highways, roads or bridges.

This proposal does not specify which organization the Department of Revenue or the Missouri Gaming Commission is to collect this tax. Their department for purposes of the fiscal note will assume that they will be required to collect this tax. For their department to collect the tax they will need 1 Associate Customer Service Representative and creation of a new tax collection database. The costed associated with the full-time equivalent (FTE) employee are:

2023 -$45,339
2024 -$45,680

The Office of Administration - Information Technology Services Division (ITSD) anticipates the creation of a new sports betting tax collection database for their department.

ITSD - DOR							
Bill Number	HB 730	FN #	1112H.02I				
Bill Section(s)	313.1021.						
Application Name:	New System - Sports Betting Tax				**FY2022**	**FY2023**	**FY2024**
IT Consultants		**On-going Yes/No**	**Rate**	**Hours**	**$**	**$**	**$**
Requirements Gathering			95	96	9,120	-	-
Analysis			95	48	4,560	-	-
Design			95	48	4,560	-	-
Development			95	675	64,125	-	-
Test			95	96	9,120	-	-
Implementation			95	16	1,520	-	-
Project Management			95	78.32	7,440	-	-
On-going support			95		-	-	-
Section Total IT Consultants:			95	1,057.32	100,445	-	-

This proposal fails to identify a fund for this tax revenue to be deposited into or the specific funds that are to receive the revenue. Therefore, for the purpose of the fiscal note, their department assumes the revenue will be deposited into the General Revenue Fund.

Using the Oxford Economics report titled "Economic Impact of Legalized Sports Betting," their department believes total state revenue (TSR) will increase. This report breaks out the possible revenue impacts into three categories. They are Limited Availability, Moderate Availability, and Convenient Availability. For the purpose of this fiscal note response, their department utilized the Moderate Availability, due to the proposed legislation allowing sports wagering to occur in any of our casinos, and online. If online would have not been permitted, their department would have used the Limited Availability number, and if it were to be treated like the lottery, Convenient Availability would have been used.

$202,200,000 - $253,300,000 (Moderate Availability Adjusted Gross Receipts (AGR) Estimate per Oxford report)

$42,462,000 - $53,193,000 (21% tax imposed to general revenue)

They also provided the following information:

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: 22-071

BILL:

FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category **Personnel by Position**	**FTEs**	**Annual Salary**	**FY 2022**	**FY 2023**	**FY 2024**
Associate Customer Service Rep	1	$24,360		$24,604	$24,850
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**1**		**1**	**1**	**1**
Total Salaries			**$0**	**$24,604**	**$24,850**
Fringe Benefits				**$20,244**	**$20,327**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2022	FY 2023	FY 2024
Cubicle - w/ Work Surface	580	1	$6,800		$6,800	
Chair	580	1	$596		$596	
Calculator	580	1	$20		$20	
Desktop Comuter System/I	580	1	$1,371		$1,371	
Telephone, Cisco US Stanc	580	1	$525		$525	
sports betting database		1	$100,445		$100,445	
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$0	$109,757	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Expendable Supplies	190	1	$372		$381	$391
Recurring Expenses	480	1	$107		$110	$112
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$491	$503
TOTAL EQUIPMENT AND EXPENSE				$0	$110,248	$503
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2022	FY 2023	FY 2024
Salaries	$0	$24,604	$24,850
Fringe Benefits	$0	$20,244	$20,327
Equipment and Expense	$0	$110,248	$503
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$155,096**	**$45,680**
II. Fund Revenue Sources			
AGR 21% wagering tax		$21,231,000-$26,596,500	$42,462,000-$53,193,000
Fines			
Administrative Sanctions			
Other Sources (Educational Fund)			
TOTAL FUND REVENUE - ALL SOURCES			
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**$21,075,904-$26,441,404**	**$42,416,320-$53,147,320**

Officials from the **Department of Public Safety - Office of the Director** indicated this initiative petition has no impact for their department, Director's Office. The Missouri Gaming Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office.

Response from the Missouri State Highway Patrol:

The Missouri State Highway Patrol's principal concern is the potential number of licensed entities eligible to provide sports wagering. As written, Section 39(g) 1. states in part, "Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state." However, as written, it would allow any of the 341 currently licensed "entities" by the Missouri Gaming Commission to offer sports wagering.

As to the question of the affect to personnel for the Patrol's Gaming Division, it would depend on the number of licensees, locations, and level of regulatory/criminal enforcement expected. The Patrol would need at least one (1) additional FTE to conduct background investigations. An increase in the number of licensees and physical locations would be an unknown cost, depending on the staffing needs to complete background checks, enforcement of rules, and criminal investigations. In addition, there would be costs for the Patrol's Gaming Division, Enforcement Section, for training related to the changes in the Missouri Constitution.

Missouri State Highway Patrol Expected Costs (Gaming Funds 0286):
1. Training - 120 troopers X $200 training per trooper = $24,000
2. One (1) FTE:
    a. Salary & Fringe = $152,968
    b. Expense & Equipment (one-time costs) = $93,448
    c. Expense & Equipment (on going costs) = $22,139

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to sports gambling should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would appropriate fifty percent (50%) of the taxes collected from sports wagering to highways, roads and bridges. If adopted, each version could have a zero to substantial (but unquantified) positive fiscal impact on the Missouri Department of Transportation (MoDOT) and the Missouri Highways and Transportation Commission (MHTC). Their department has no specific estimate on revenues that may be generated.

Officials from the **Office of Administration** indicated this proposal relating to sports gambling should not fiscally impact their office.

This proposal would allow any entity licensed by the Missouri Gaming Commission to offer Sports Wagering in this state. The proposal further imposes a wagering tax of 21% on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

Budget & Planning defers to the Missouri Gaming Commission for an estimate of increased revenues. This proposal will not affect total state revenue or Article X, Sections 17 and 18(e).

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article III, has no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate $5,000 per year in amusement license revenue as well as $50,000 in sales tax revenue. No additional costs. They estimated the $50,000 from other economic sales activity due to the overall legalization of sports gambling, not from the wagering tax. They see the wagering tax as in addition to existing sales taxes and due to the State to be split 50/50 for education and state highways, unless provided future information otherwise (such as State grants to local governments for highways/etc.).

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition proposing to amend Article III, version 4.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the proposed proposition would allow for sports wagering within the state and impose a sports wagering tax of 21% upon the adjusted gross receipts received from sports wagering by a licensed entity. Of the tax imposed, 50% would be allocated to a fund to support educational institutions (pre-K thru 12th grade) and 50% would be allocated for construction and repair or maintenance of highways, roads, or bridges.

While it can be anticipated that the majority of sports wagering activity would occur over the internet, the petition contemplates licensing for sports wagering on excursion gambling boats, sports and entertainment districts as well as internet based sports wagering platforms. Under existing gaming laws RSMo. 313.820 and 313.822, the City of St. Louis as a home dock city receives one half of the state's $2 admission fee and 10% of the state's 21% tax on adjusted gross receipts from its current gaming facilities. The proposed petition does not provide for an allocation of sports wagering revenues to the local home dock city. Thus to any extent that sports wagering becomes a growing share of gambling boat gaming activity, the city would see a reduction in revenues from gaming. Whether this potential loss can be offset from allocations from the aforementioned state funds is not clear.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri System** indicated they believe that this legislation will result in additional cost related to increased monitoring, training, and educational requirements. All previous versions of bills have included sports betting on college sports and they would be surprised if any bill put forward in Missouri would not as virtually every state has to some extent. Even if collegiate sports were excluded from any bill that passed, there would still likely be some increased costs in those areas simply because it would still be prohibited by the National Collegiate Athletic Association (NCAA) for their student-athletes and staff to bet on sports at any level, and they would now have the ability to do so in the state, on their phones, etc. However, it would not likely be as significant a financial impact as it would if betting were allowed on college sports.

Officials from the **State Auditor's office** indicated this proposal would have no fiscal impact on their office. Any impact can be absorbed through current appropriations.

Officials from the **Missouri Gaming Commission** (MGC) indicated:

This proposal will also affect the Missouri State Highway Patrol, the Missouri Department of Revenue, and the Missouri Department of Mental Health.

They anticipate licensees to pay various fees to the MGC in order to regulate and manage sports wagering in Missouri. It also imposes certain taxes be paid by licensees based on their adjusted gross revenue.

If this initiative petition passes, they estimate needing five new full-time equivalent positions, which would result in an initial cost to the MGC of $547,266.90 (including salary, fringe, supplies, equipment, and travel/lodging related to job performance of those additional employees), in addition to approximately $797,479.38, which represents 2.5% of the MGC existing budget each year (the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering) for a total initial cost of $1,344,706.27. Additional costs included in this estimate may also encompass those associated with the development and implementation of responsible gambling programs and consumer education campaigns. The total annual ongoing personnel cost, after the first year, is estimated to be $1,325,281.17.

The MGC and the Missouri State Highway Patrol (MSHP) currently have a Memorandum of Understanding (MOU) in place which states that the MSHP will provide background and criminal and regulatory investigation and enforcement support to the MGC to assist it in carrying out its duties, which could result in additional costs.

They estimate a total of 18 applicants for sports wagering licenses, to include the 13 current gambling boats and five sportsbook providers that would offer the platform for sportsbook wagering; the casinos could utilize the same sportsbook providers.

Based on the number of applicants, they estimate collection of fees between $1.8 and $4.5 million the first year up to $2.65 to $5.95 million by the fifth year of operation. The fees

would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MGC. The estimated range of fees comes from the American Gaming Association's (AGA) State of the States 2021 report,[1] which range from $0 to $10 million. The assumption is that the states with $0 fees have a dedicated funding source other than the fees received.

This proposal sets the wagering tax assessed on the adjusted gross receipts (AGR) received from sports wagering conducted by a licensed entity at 21%. AGR is calculated by starting with total revenue minus winnings, minus voided wagers and uncollectible receivables. They estimated Missouri's licensees' total revenue to be $146,437,962. They then subtracted an estimated amount (2.5% of total revenue) for uncollectible receivables and to cover fees for using official league data, leaving an AGR of $142,777,013. Based on that amount, the MGC estimates the total estimated tax on AGR to be $29,983,173 each year, the revenue from which would be equally divided between pre-K through 12th grade educational institution and highways, roads, and bridge funding.

The annual total AGR for Missouri is estimated based on the State of Mississippi's sports wagering totals, minus uncollectibles and fees. Mississippi's Total Revenue from sports betting is the actual total revenue amounts from October 2019 through September 2021.[2] They then determined Mississippi's sports betting revenue was 2.50% of its total gaming revenue. This was calculated by taking $53,631,014 and dividing by $2,141,840,000 ($53,631,014 / $2,141,840,000 =.0250). They then could assume Missouri's sports betting revenue would also be 2.50% of Missouri's total gaming revenue of $1,754,470,000 ($1,754,470,000 x 2.50% = $43,931,389). Mississippi sports betting is limited to bets placed in person at the casinos. They assume that allowing online wagering will significantly increase revenue. Based on the experience in other states, including Pennsylvania and New Jersey, they made the assumption that the estimated $43 million calculated for wagers placed in person at casinos would comprise approximately 30% of the adjusted gross receipts. Therefore, sports betting revenue would be comprised of 70% mobile wagering and 30% retail wagering if the law would allow mobile wagers to be placed (($43,931,389 x 70%) / 30%) = $102,506,572 = additional revenue).

They presume the regulation of sports wagering as contemplated by the proposal would allow for internet-based sports wagering platforms (i.e., mobile sports wagering). If that is not the proposal's intent, then they would anticipate a significant negative impact on overall revenue and AGR as a result.

They assume the revenue from sports wagering will be significantly less based on the language of this proposal which limits sports wagering to "wagering on professional athletic or sports events." Several states allow sports wagering on college events, including

[1] The AGA State of the States 2021 report can be accessed at State of the States 2021 - American Gaming Association (https://www.americangaming.org/resources/state-of-the-states-2021/), specifically pages 1-9, 18, and 64-66.

[2] The State of Mississippi's Gaming Commission reports MGC used to calculate their amounts can be accessed at http://www.msgamingcommission.com/index.php/reports/monthly_reports.

the National Collegiate Athletic Association (NCAA) Men's Basketball Championships ("March Madness") and the NCAA Men's Football Championship Bowl Games, in addition to professional sports.

They also provided the following information:

Sports Wagering

Mobile wagers allowed

Position Title	Number of FTE	Annual Salary	Annual Fringes (33.12% plus $14,048)	IT Equipment (one time)	IT Equipment (ongoing)	Desk (one time)	Chair (one time)	File Cabinet (one time)	Calculator (one time)	Office Supplies (ongoing)	Voice/Data Wiring (one time)	Voice/Data (ongoing)	Annual Travel Expenses Related to Job Performance (ongoing)	TOTAL	Second Year and Ongoing
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Program Coordinator	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Admin Support Professional-Lic	**1**	$ 39,469	$ 27,120.13	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 81,891.51**	**$ 78,006.49**
Senior Regulatory Auditor	**1**	$ 55,451	$ 32,413.37	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 103,166.75**	**$ 99,281.73**
TOTAL	**5**	**$ 300,837.59**	**$ 169,877.41**	**$ 8,230.10**	**$ 2,056.80**	**$ 3,005.00**	**$ 3,595.00**	**$ 2,995.00**	**$ 100.00**	**$ 1,860.00**	**$ 1,500.00**	**$ 2,100.00**	**$ 51,070.00**	**$ 547,226.90**	**$ 527,801.80**
													Add additional MGC expense (from Sports Wagering Cost tab):	**$ 797,479.38**	**$ 797,479.38**
													Total estimated annual cost to MGC:	**$ 1,344,706.27**	**$ 1,325,281.17**

Revenue Streams[1]	Number of Applicants or Holders of Sports Wagering AGR[2]	Fee Amount[3]	1st Year	2nd Year	3rd Year	4th Year	5th Year	Fund to Deposit
Certificate of Authority Application Fee (Initially) -Casino	13	100,000-250,000	1,300,000-3,250,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Certificate Holder Administration Fee (Annual after the first year) -Casino	13	75,000-150,000	$ -	975,000-1,950,000	975,000-1,950,000	975,000-1,950,000	975,000-1,950,000	Gaming Commission Fund
Certificate Holder Reinvestigation Fee (in the 5th year after sports wagering commenced and each 5th year thereafter)-Casino	13	100,000-250,000	$ -	$ -	$ -	$ -	1,300,000-3,250,000	Gaming Commission Fund
Sports Wagering Platform License Application Fee (Initially)-Sportsbook Provider	5	100,000-250,000	500,000-1,250,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Sports Wagering Platform License Annual Renewal Fee (Annual after the first year)-Sportsbook Provider	5	75,000-150,000	$ -	375,000-750,000	375,000-750,000	375,000-750,000	375,000-750,000	Gaming Commission Fund
TOTAL FEES COLLECTED[4]			**1,800,000-4,500,000**	**1,350,000-2,700,000**	**1,350,000-2,700,000**	**1,350,000-2,700,000**	**2,650,000-5,950,000**	

[1] Note: The above collected fees would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MO Gaming Commission, which includes the MSHP Gaming Division expenses.

[2] The Number of Applicants assumes all 13 casinos will apply for a Certificate of Authority. We estimate that at least five (5) sportsbook providers will apply for a Sports Wagering Platform License. The casinos may offer more than one sportsbook provider option.

[3] The range of fee amounts listed comes from AGA's State of the States 2021 report (see tab called 'Other States Fees'). The fees listed on AGA's report range from zero dollars to $10 million. The assumption is that the states with zero dollar fees have a dedicated funding source other than the fees received.

[4] Total Fees Collected are estimates only and are based on the assumption that all casinos and sportbook providers are being approved and licensed at the same time.

MGC Approps	FY 22 Budget		
Appropriation 2990 MGC PS	$ 15,329,912.00	2.50%	$ 383,247.80
Appropriation 2991 MGC E&E	$ 1,731,187.00	2.50%	$ 43,279.68
Appropriation T285 Work Comp	$ 7,323.00	2.50%	$ 183.08
Appropriation T293 OASDHI	$ 1,213,220.00	2.50%	$ 30,330.50
Appropriation T297 MGC Ret	$ 3,448,696.00	2.50%	$ 86,217.40
Appropriation T304 MGC MSHP	$ 2,374,625.00	2.50%	$ 59,365.63
Appropriation T692 Cost Alloc	$ 437,328.00	2.50%	$ 10,933.20
Appropriation 1542 MSHP PS Fringe	$ 7,089,567.00	2.50%	$ 177,239.18
Appropriation 1543 MSHP E&E Fringe	$ 267,317.00	2.50%	$ 6,682.93
	$ 31,899,175.00		$ 797,479.38

Besides the FTE positions and additional costs reflected in the fiscal note, MGC also estimates an additional cost of approximately $797,479 (represents 2.5% of MGC existing budget) each year. $797,479 represents the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering.

Alixandra S. Cossette, Attorney, Stinson LLP provided the following information:

STINSON

Alixandra S. Cossette
ASSOCIATE
DIRECT: 573.556.3612
OFFICE: 573.636.6263
alixandra.cossette@stinson.com

November 5, 2021

Via Electronic Mail to: moaudit@auditor.mo.gov

The Honorable Nicole R. Galloway, CPA
Missouri State Auditor's Office
P.O. Box 869
Jefferson City, Missouri 65102

Re: Initiative Petition 2022-071

Dear Auditor Galloway:

Pursuant to Section 116.175, RSMo, I hereby submit this statement of fiscal impact to aid you and your office in estimating the fiscal impact of Initiative Petition 2022-071. Initiative Petition 2022-071 authorizes sports wagering in Missouri and taxes the adjusted gross receipts of those wagers at a tax rate of 21%. These tax revenues will be split with 50% of the revenues to be appropriated for pre-kindergarten through twelfth grade educational institutions and 50% of the revenue to be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

The fiscal impact described herein has been extrapolated based on the information provided by the Committee on Legislative Research, Oversight Division in fiscal notes for Senate Committee Substitute for Senate Bill 98 (2021), Senate Bill 217 (2021), and Senate Bill 256 (2021).

The Oversight Division based its estimates on information provided by the Missouri Gaming Commission. The Gaming Commission extrapolated from the experience of the state of Mississippi with sports wagering. The Gaming Commission determined that Mississippi's annual revenue from sports wagering was 1.87% of its total revenue from gaming between November 2018 and October 2020.

Assuming that same rate of 1.87% of total annual gaming revenue, the Gaming Commission assumed Missouri's sports wagering revenue would also be 1.87% of total gaming revenue in Missouri. Missouri's total annual gaming revenue is $1,754,470,000. 1.87% of that total is $32,808,589. However, Mississippi only allows wagers to be placed at casinos. In making fiscal estimates, the Gaming Commission assumed that allowing online wagering would significantly increase revenue. Considering experiences in other states, including Pennsylvania and New Jersey, the Gaming Commission assumed that the estimated $32 million calculated for wagers placed in person at casinos would comprise approximately 30% of the annual adjusted gross receipts. Therefore, the additional 70% of revenues would be from mobile wagering or approximately $76,553,374 annually. Therefore, total annual revenue from sports wagering would be $109,361,963.

The initiative petition imposes a tax rate of 21% on these adjusted gross receipts. Based on a tax rate of 21%, tax revenues would be $22,966,012.20 annually.

This analysis indicates that this initiative petition will ensure additional revenues for education and infrastructure. Therefore, I advise you to summarize the annual revenues as $22,966,012 to "unknown" since that is the most accurate description of the overall fiscal impact.

Sincerely,

Stinson LLP



Alixandra S. Cossette

ASC:

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities are estimated to have one-time costs of $246,000, ongoing costs of at least $1.5 million annually, initial revenues of $1.8 million to $4.5 million, and ongoing revenues of at least $24 million to $55 million annually. Local governmental entities estimate ongoing revenues of at least $55,000 annually.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 27, 2021

RECEIVED
OCT 27 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Alixandra Cossette regarding a proposed constitutional amendment to Article III, version 3 (2022-070)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Alixandra Cossette on October 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

RECEIVED
2021 OCT 27 AM 10:34

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
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9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

22-070

NOTICE: The proposed amendment revises Article III of the Constitution by adopting one new section to be known as Article III, Section 39(g).

Be it resolved by the people of the state of Missouri that the Constitution be amended as follows:

Section A. Article III of the Constitution is revised by adopting one new Section to be known as Article III, Section 39(g) to read as follows:

Section 39(g) 1. Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state. Sports Wagering means wagering on professional athletic or sporting events.

2. The Missouri Gaming Commission shall promulgate rules to regulate Sports Wagering including, but not limited to:

(a) Requirements that licensees cooperate with investigations conducted by law enforcement agencies or professional sports leagues;

(b) Standards requiring the use of official league data to determine the outcome of certain types of wagers on a professional athletic or sporting event;

(c) Standards and procedures for licensing excursion gambling boats, sports and entertainment districts, and internet based sports wagering platforms to offer Sports Wagering; and

(d) Rules prohibiting all Sports Wagering activity within a sports and entertainment district unless approved by the professional sports team that plays its home games within the district, except such rules shall not prohibit the sole activity of offering Sports Wagering over the internet via a licensed internet based sports wagering platform that is accessible to persons physically located within the sports and entertainment district. A sports and entertainment district shall be comprised of:

(i) the premises of any facility where a professional sports team plays its home games and the 400 yards surrounding such premises; or

(ii) any area owned or operated by an entity or affiliated entities licensed to sell liquor at retail as an entertainment district pursuant to chapter 311 of the Missouri statutes and such entity or affiliated entities have a verifiable financial investment of more than two hundred million dollars to develop such district, provided, however, that, for purposes hereof, the boundaries of such entertainment district shall not be enlarged after the effective date hereof.

3. (a) Notwithstanding any other provision of law, including Section 39(d), to the contrary, a wagering tax of 6.75 percent is imposed on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on sports wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair or maintenance of highways, roads or bridges.

(b) The state auditor shall perform an annual audit of the revenues received and appropriated pursuant to this section to ensure they are being used only for authorized purposes. The state auditor shall make such audit available to the public, the governor, and the general assembly.

(c) The additional revenue provided by this section shall not be part of the "total state revenue" within the meaning of Article X, Sections 17 and 18. The expenditure of this additional revenue shall not be an "expense of state government" under Article X, Section 20.

4. Notwithstanding any other provision of law, including Article III, Section 39(9), to the contrary, the general assembly may enact laws consistent with this section.

5. All provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-070)

Subject

Initiative petition from Alixandra Cossette regarding a proposed constitutional amendment to Article III. (Received October 27, 2021)

Date

November 16, 2021

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **State Auditor's office,** and the **Missouri Gaming Commission.**

Alixandra S. Cossette, Attorney, Stinson LLP provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that they could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated this initiative petition may impact revenues received from tax imposed on Sports Wagering but their department has no means to calculate the amount of potential impact.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated their department assumes the increase in gambling opportunities will increase the number of individuals who voluntarily seek treatment for a gambling problem. However, the bill does not mandate that any individual receive treatment and treatment will remain voluntary. Therefore, they assume that expenditures cannot exceed the balance of the Compulsive Gamblers fund and no State General Revenue beyond that balance will be expended.

In fiscal year (FY) 21, their department served approximately 71 consumers through compulsive gambling (CG) treatment services with an average cost of $1,230 per consumer for a total of $87,330.

If the number of consumers served triples, they estimate treatment for 213 consumers with an average cost of $1,230 per treatment episode for a total treatment cost of $261,990. Currently, they have eleven certified compulsive gambling treatment providers; this number would likely need to increase over time along with the need for additional compulsive gambling counselors. They estimate 25 new compulsive gambling counselors will be needed throughout the state, with initial cost for training new counselors estimated at $160 per person for a total of $4,000 for FY 23.

If additional advertising is needed, their department anticipates annual cost for advertising with public service announcements for help with compulsive gambling at $166,400. Total cost to their department would be estimated at $360,325 in FY 23. For FY 24 and beyond, the amount would increase to $432,390 or more based upon the need for compulsive gambling services.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article III, version 3.

Officials from the **Department of Revenue** indicated this is an initiative petition that would go to the vote of the people at the November 2022 general election. If this is not adopted by the people, this would not have a fiscal impact.

Should this be adopted at the November 2022 election, by the time certification of the election occurs, it is assumed this constitutional amendment would have a January 1, 2023 effective date.

This proposal in Section 3.(a) assesses a wagering tax of 6.75% on the adjusted gross receipts received from sports wagering conducted by licensed entities. This proposal states that 50% of the revenue received from this tax is to be appropriated to support pre-kindergarten through 12th grade educational institutions and 50% of the revenue is to be appropriated for the construction, repair or maintenance of highways, roads or bridges.

This proposal does not specify which organization the Department of Revenue or the Missouri Gaming Commission is to collect this tax. Their department for purposes of the fiscal note will assume that they will be required to collect this tax. For their department to collect the tax they will need 1 Associate Customer Service Representative and creation of a new tax collection database. The costed associated with the full-time equivalent (FTE) employee are:

2023 -$45,339
2024 -$45,680

The Office of Administration - Information Technology Services Division (ITSD) anticipates the creation of a new sports betting tax collection database for their department.

ITSD - DOR							
Bill Number	HB 730	FN #	1112H.02I				
Bill Section(s)	313.1021.						
Application Name:	New System - Sports Betting Tax				**FY2022**	**FY2023**	**FY2024**
IT Consultants		**On-going Yes/No**	**Rate**	**Hours**	**$**	**$**	**$**
Requirements Gathering			95	96	9,120	-	-
Analysis			95	48	4,560	-	-
Design			95	48	4,560	-	-
Development			95	675	64,125	-	-
Test			95	96	9,120	-	-
Implementation			95	16	1,520	-	-
Project Management			95	78.32	7,440	-	-
On-going support			95		-	-	-
Section Total IT Consultants:			95	1,057.32	100,445	-	-

This proposal fails to identify a fund for this tax revenue to be deposited into or the specific funds that are to receive the revenue. Therefore, for the purpose of the fiscal note, their department assumes the revenue will be deposited into the General Revenue Fund.

Using the Oxford Economics report titled "Economic Impact of Legalized Sports Betting," their department believes total state revenue (TSR) will increase. This report breaks out the possible revenue impacts into three categories. They are Limited Availability, Moderate Availability, and Convenient Availability. For the purpose of this fiscal note response, their department utilized the Moderate Availability, due to the proposed legislation allowing sports wagering to occur in any of our casinos, and online. If online would have not been permitted, their department would have used the Limited Availability number, and if it were to be treated like the lottery, Convenient Availability would have been used.

$202,200,000 - $253,300,000 (Moderate Availability Adjusted Gross Receipts (AGR) Estimate per Oxford report)

$13,648,500 - $17,097,750 (6.75% tax imposed to general revenue)

They also provided the following information:

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: 22-070

BILL:

FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2022	FY 2023	FY 2024
Associate Customer Service Rep	1	$24,360		$24,604	$24,850
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**1**		**1**	**1**	**1**
Total Salaries			**$0**	**$24,604**	**$24,850**
Fringe Benefits				**$20,244**	**$20,327**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2022	FY 2023	FY 2024
Cubicle - w/ Work Surface	580	1	$6,800		$6,800	
Chair	580	1	$596		$596	
Calculator	580	1	$20		$20	
Desktop Comuter System/I	580	1	$1,371		$1,371	
Telephone, Cisco US Stanc	580	1	$525		$525	
sports betting database		1	$100,445		$100,445	
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$0	$109,757	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Expendable Supplies	190	1	$372		$381	$391
Recurring Expenses	480	1	$107		$110	$112
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$491	$503
TOTAL EQUIPMENT AND EXPENSE				$0	$110,248	$503
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2022	FY 2023	FY 2024
Salaries	$0	$24,604	$24,850
Fringe Benefits	$0	$20,244	$20,327
Equipment and Expense	$0	$110,248	$503
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$155,096**	**$45,680**
II. Fund Revenue Sources			
AGR 21% wagering tax		$6,824,250-$8,548,875	$13,648,500-$17,097,750
Fines			
Administrative Sanctions			
Other Sources (Educational Fund)			
TOTAL FUND REVENUE - ALL SOURCES			
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**$6,669,154-$8,393,779**	**$13,602,820-$17,052,070**

Officials from the **Department of Public Safety - Office of the Director** indicated this initiative petition has no impact for their department, Director's Office. The Missouri Gaming Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office.

Response from the Missouri State Highway Patrol:

The Missouri State Highway Patrol's principal concern is the potential number of licensed entities eligible to provide sports wagering. As written, Section 39(g) 1. states in part, "Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state." However, as written, it would allow any of the 341 currently licensed "entities" by the Missouri Gaming Commission to offer sports wagering.

As to the question of the affect to personnel for the Patrol's Gaming Division, it would depend on the number, locations, and level of regulatory/criminal enforcement expected. If the locations are limited to the 13 existing riverboat casinos and/or sports and entertainment districts, the Patrol would need one (1) additional FTE to conduct background investigations. An increase in the number of licensees and physical locations, beyond those listed above, would be an unknown cost, depending on the staffing needs to complete background checks, enforcement of rules, and criminal investigations. In addition, there would be costs for the Patrol's Gaming Division, Enforcement Section, for training related to the changes in the Missouri Constitution.

Missouri State Highway Patrol Expected Costs (Gaming Funds 0286):
1. Training - 120 troopers X $200 training per trooper = $24,000
2. One (1) FTE:
    a. Salary & Fringe = $152,968
    b. Expense & Equipment (one-time costs) = $93,448
    c. Expense & Equipment (on going costs) = $22,139

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to sports gambling should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would appropriate fifty percent (50%) of the taxes collected from sports wagering to highways, roads and bridges. If adopted, each version could have a zero to substantial (but unquantified) positive fiscal impact on the Missouri Department of Transportation

(MoDOT) and the Missouri Highways and Transportation Commission (MHTC). Their department has no specific estimate on revenues that may be generated.

Officials from the **Office of Administration** indicated this proposal relating to sports gambling should not fiscally impact their office.

This proposal would allow any entity licensed by the Missouri Gaming Commission to offer Sports Wagering in this state. The proposal further imposes a wagering tax of 6.75% on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

Budget & Planning defers to the Missouri Gaming Commission for an estimate of increased revenues. This proposal will not affect total state revenue or Article X, Sections 17 and 18(e).

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of

publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article III, has no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate $5,000 per year in amusement license revenue as well as $50,000 in sales tax revenue. No additional costs. They estimated the $50,000 from other economic sales activity due to the overall legalization of sports gambling, not from the wagering tax. They see the wagering tax as in addition to existing sales taxes and due to the State to be split 50/50 for education and state highways, unless provided future information otherwise (such as State grants to local governments for highways/etc.).

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition proposing to amend Article III, version 3.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the proposed proposition would allow for sports wagering within the state and impose a sports wagering tax of 6.75% upon the adjusted gross receipts received from sports wagering by a licensed entity. Of the tax imposed, 50% would be allocated to a fund to support educational institutions (pre-K thru 12th grade) and 50% would be allocated for construction and repair or maintenance of highways, roads, or bridges.

While it can be anticipated that the majority of sports wagering activity would occur over the internet, the petition contemplates licensing for sports wagering on excursion gambling boats, sports and entertainment districts as well as internet based sports wagering platforms. Under existing gaming laws RSMo. 313.820 and 313.822, the City of St. Louis as a home dock city receives one half of the state's $2 admission fee and 10% of the state's 21% tax on adjusted gross receipts from its current gaming facilities. The proposed petition does not provide for an allocation of sports wagering revenues to the local home dock city. Thus to any extent that sports wagering becomes a growing share of gambling boat gaming activity, the city would see a reduction in revenues from gaming. Whether this potential loss can be offset from allocations from the aforementioned state funds is not clear.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri System** indicated they believe that this legislation will result in additional cost related to increased monitoring, training, and educational requirements. All previous versions of bills have included sports betting on college sports and they would be surprised if any bill put forward in Missouri would not as virtually every state has to some extent. Even if collegiate sports were excluded from any bill that passed, there would still likely be some increased costs in those areas simply because it would still be prohibited by the National Collegiate Athletic Association (NCAA) for their student-athletes and staff to bet on sports at any level, and they would now have the ability to do so in the state, on their phones, etc. However, it would not likely be as significant a financial impact as it would if betting were allowed on college sports.

Officials from the **State Auditor's office** indicated this proposal would have no fiscal impact on their office. Any impact can be absorbed through current appropriations.

Officials from the **Missouri Gaming Commission** (MGC) indicated:

This proposal will also affect the Missouri State Highway Patrol, the Missouri Department of Revenue, and the Missouri Department of Mental Health, and "sports and entertainment districts" located in St. Louis and Kansas City, as that term is defined in the proposal.

It may have an impact on local jurisdictions and businesses surrounding and in close proximity to the "sports and entertainment districts" located in St. Louis and Kansas City, as that term is defined in the proposal.

They anticipate licensees to pay various fees to the MGC in order to regulate and manage sports wagering in Missouri. It also imposes certain taxes be paid by licensees based on their adjusted gross revenue.

If this initiative petition passes, they estimate needing five new full-time equivalent positions, which would result in an initial cost to the MGC of $547,266.90 (including salary, fringe, supplies, equipment, and travel/lodging related to job performance of those additional employees), in addition to approximately $797,479.38, which represents 2.5% of the MGC existing budget each year (the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering) for a total initial cost of $1,344,706.27. Additional costs included in this estimate may also encompass those associated with the development and implementation of responsible gambling programs and consumer education campaigns. The total annual ongoing personnel cost, after the first year, is estimated to be $1,325,281.17.

The MGC and the Missouri State Highway Patrol (MSHP) currently have a Memorandum of Understanding (MOU) in place which states that the MSHP will provide background

and criminal and regulatory investigation and enforcement support to the MGC to assist it in carrying out its duties, which could result in additional costs.

They estimate a total of 20 applicants for sports wagering licenses, to include the 13 current gambling boats, plus two "sports and entertainment districts" located in St. Louis and Kansas City, as that term is defined in the proposal, and the five Missouri professional sports teams. They estimate eight sportsbook providers would offer the platform for sportsbook wagering; the casinos, professional sports teams, or sports and entertainment districts could utilize the same sportsbook providers.

Based on the number of applicants, they estimate collection of fees between $2.8 and $7 million the first year up to $4.1 to $9.2 million by the fifth year of operation. The fees would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MGC. The estimated range of fees comes from the American Gaming Association's (AGA) State of the States 2021 report,[1] which range from $0 to $10 million. The assumption is that the states with $0 fees have a dedicated funding source other than the fees received.

This proposal sets the wagering tax assessed on the adjusted gross receipts (AGR) received from sports wagering conducted by a licensed entity at 6.75%. AGR is calculated by starting with total revenue minus winnings, minus voided wagers and uncollectible receivables. They estimated Missouri's licensees' total revenue to be $146,437,962. They then subtracted an estimated amount (2.5% of total revenue) for uncollectible receivables and to cover fees for using official league data, leaving an AGR of $142,777,013. Based on that amount, the MGC estimates the total estimated tax on AGR to be $9,637,448.38 each year, the revenue from which would be equally divided between pre-K through 12th grade educational institution and highways, roads, and bridge funding.

The annual total AGR for Missouri is estimated based on the State of Mississippi's sports wagering totals, minus uncollectibles and fees. Mississippi's Total Revenue from sports betting is the actual total revenue amounts from October 2019 through September 2021.[2] They then determined Mississippi's sports betting revenue was 2.50% of its total gaming revenue. This was calculated by taking $53,631,014 and dividing by $2,141,840,000 ($53,631,014 / $2,141,840,000 =.0250). They then could assume Missouri's sports betting revenue would also be 2.50% of Missouri's total gaming revenue of $1,754,470,000 ($1,754,470,000 x 2.50% = $43,931,389). Mississippi sports betting is limited to bets placed in person at the casinos. They assume that allowing online wagering will significantly increase revenue. Based on the experience in other states, including Pennsylvania and New Jersey, they made the assumption that the estimated $43 million calculated for wagers placed in person at casinos would comprise approximately 30% of

[1] The AGA State of the States 2021 report can be accessed at State of the States 2021 - American Gaming Association (https://www.americangaming.org/resources/state-of-the-states-2021/), specifically pages 1-9, 18, and 64-66.

[2] The State of Mississippi's Gaming Commission reports MGC used to calculate their amounts can be accessed at http://www.msgamingcommission.com/index.php/reports/monthly_reports.

the adjusted gross receipts. Therefore, sports betting revenue would be comprised of 70% mobile wagering and 30% retail wagering if the law would allow mobile wagers to be placed (($43,931,389 x 70%) / 30%) = $102,506,572 = additional revenue).

They assume the revenue from sports wagering will be significantly less based on the language of this proposal which limits sports wagering to "wagering on professional athletic or sports events." Several states allow sports wagering on college events, including the National Collegiate Athletic Association (NCAA) Men's Basketball Championships ("March Madness") and the NCAA Men's Football Championship Bowl Games, in addition to professional sports.

They also provided the following information:

Sports Wagering

Mobile wagers allowed

Position Title	Number of FTE	Annual Salary	Annual Fringes (33.12% plus $14,048)	IT Equipment (one time)	IT Equipment (ongoing)	Desk (one time)	Chair (one time)	File Cabinet (one time)	Calculator (one time)	Office Supplies (ongoing)	Voice/Data Wiring (one time)	Voice/Data (ongoing)	Annual Travel Expenses Related to Job Performance (ongoing)	TOTAL	Second Year and Ongoing
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Program Coordinator	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Admin Support Professional-Lic	**1**	$ 39,469	$ 27,120.13	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 81,891.51**	**$ 78,006.49**
Senior Regulatory Auditor	**1**	$ 55,451	$ 32,413.37	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 103,166.75**	**$ 99,281.73**
TOTAL	**5**	**$ 300,837.59**	**$ 169,877.41**	**$ 8,230.10**	**$ 2,056.80**	**$ 3,005.00**	**$ 3,595.00**	**$ 2,995.00**	**$ 100.00**	**$ 1,860.00**	**$ 1,500.00**	**$ 2,100.00**	**$ 51,070.00**	**$ 547,226.90**	**$ 527,801.80**
								Add additional MGC expense (from Sports Wagering Cost tab):						**$ 797,479.38**	**$ 797,479.38**
								Total estimated annual cost to MGC:						**$ 1,344,706.27**	**$ 1,325,281.17**

Revenue Streams[1]	Number of Applicants or Holders of Sports Wagering AGR [2]	Fee Amount[3]	1st Year	2nd Year	3rd Year	4th Year	5th Year	Fund to Deposit
Certificate of Authority Application Fee (Initially) -Casino	20	100,000-250,000	2,000,000-5,000,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Certificate Holder Administration Fee (Annual after the first year) -Casino	20	75,000-150,000	$ -	1,500,000-3,000,000	1,500,000-3,000,000	1,500,000-3,000,000	1,500,000-3,000,000	Gaming Commission Fund
Certificate Holder Reinvestigation Fee (in the 5th year after sports wagering commenced and each 5th year thereafter)-Casino	20	100,000-250,000	$ -	$ -	$ -	$ -	2,000,000-5,000,000	Gaming Commission Fund
Sports Wagering Platform License Application Fee (Initially)-Sportsbook Provider	8	100,000-250,000	800,000-2,000,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Sports Wagering Platform License Annual Renewal Fee (Annual after the first year)-Sportsbook Provider	8	75,000-150,000	$ -	600,000-1,200,000	600,000-1,200,000	600,000-1,200,000	600,000-1,200,000	Gaming Commission Fund
TOTAL FEES COLLECTED[4]			**2,800,000-7,000,000**	**2,100,000-4,200,000**	**2,100,000-4,200,000**	**2,100,000-4,200,000**	**4,100,000-9,200,000**	

[1] Note: The above collected fees would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MO Gaming Commission, which includes the MSHP Gaming Division expenses.

[2] The Number of Applicants includes 13 current gambling boats plus two (2) entertainment districts in Kansas City plus five (5) professional teams (per MO ATC, 86 convention trade area licenses exist, although we assume only one licensee will meet financial investment of $150 million). The sportsbook providers provide the platform for sportsbook wagering and the casinos, professional sports teams or entertainment districts could utilize the same sportsbook provider.

[3] The range of fee amounts listed comes from AGA's State of the States 2021 report (see tab called 'Other States Fees'). The fees listed on AGA's report range from zero dollars to $10 million. The assumption is that the states with zero dollar fees have a dedicated funding source other than the fees received.

[4] Total Fees Collected are estimates only and are based on the assumption that all casinos and sportbook providers are being approved and licensed at the same time.

MGC Approps	FY 22 Budget		
Appropriation 2990 MGC PS	$ 15,329,912.00	2.50%	$ 383,247.80
Appropriation 2991 MGC E&E	$ 1,731,187.00	2.50%	$ 43,279.68
Appropriation T285 Work Comp	$ 7,323.00	2.50%	$ 183.08
Appropriation T293 OASDHI	$ 1,213,220.00	2.50%	$ 30,330.50
Appropriation T297 MGC Ret	$ 3,448,696.00	2.50%	$ 86,217.40
Appropriation T304 MGC MSHP	$ 2,374,625.00	2.50%	$ 59,365.63
Appropriation T692 Cost Alloc	$ 437,328.00	2.50%	$ 10,933.20
Appropriation 1542 MSHP PS Fringe	$ 7,089,567.00	2.50%	$ 177,239.18
Appropriation 1543 MSHP E&E Fringe	$ 267,317.00	2.50%	$ 6,682.93
	$ 31,899,175.00		$ 797,479.38

Besides the FTE positions and additional costs reflected in the fiscal note, MGC also estimates an additional cost of approximately $797,479 (represents 2.5% of MGC existing budget) each year. $797,479 represents the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering.

Alixandra S. Cossette, Attorney, Stinson LLP provided the following information:

STINSON

Alixandra S. Cossette
ASSOCIATE
DIRECT: 573.556.3612
OFFICE: 573.636.6263
alixandra.cossette@stinson.com

November 5, 2021

Via Electronic Mail to: moaudit@auditor.mo.gov

The Honorable Nicole R. Galloway, CPA
Missouri State Auditor's Office
P.O. Box 869
Jefferson City, Missouri 65102

Re: Initiative Petition 2022-070

Dear Auditor Galloway:

Pursuant to Section 116.175, RSMo, I hereby submit this statement of fiscal impact to aid you and your office in estimating the fiscal impact of Initiative Petition 2022-070. Initiative Petition 2022-070 authorizes sports wagering in Missouri and taxes the adjusted gross receipts of those wagers at a tax rate of 6.75%. These tax revenues will be split with 50% of the revenues to be appropriated for pre-kindergarten through twelfth grade educational institutions and 50% of the revenue to be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

The fiscal impact described herein has been extrapolated based on the information provided by the Committee on Legislative Research, Oversight Division in fiscal notes for Senate Committee Substitute for Senate Bill 98 (2021), Senate Bill 217 (2021), and Senate Bill 256 (2021).

The Oversight Division based its estimates on information provided by the Missouri Gaming Commission. The Gaming Commission extrapolated from the experience of the state of Mississippi with sports wagering. The Gaming Commission determined that Mississippi's annual revenue from sports wagering was 1.87% of its total revenue from gaming between November 2018 and October 2020.

Assuming that same rate of 1.87% of total annual gaming revenue, the Gaming Commission assumed Missouri's sports wagering revenue would also be 1.87% of total gaming revenue in Missouri. Missouri's total annual gaming revenue is $1,754,470,000. 1.87% of that total is $32,808,589. However, Mississippi only allows wagers to be placed at casinos. In making fiscal estimates, the Gaming Commission assumed that allowing online wagering would significantly increase revenue. Considering experiences in other states, including Pennsylvania and New Jersey, the Gaming Commission assumed that the estimated $32 million calculated for wagers placed in person at casinos would comprise approximately 30% of the annual adjusted gross receipts. Therefore, the additional 70% of revenues would be from mobile wagering or approximately $76,553,374 annually. Therefore, total annual revenue from sports wagering would be $109,361,963.

The initiative petition imposes a tax rate of 6.75% on these adjusted gross receipts. Based on a tax rate of 10%, tax revenues would be $7,381,932.50. annually.

This analysis indicates that this initiative petition will ensure additional revenues for education and infrastructure. Therefore, I advise you to summarize the annual revenues as $7,381,932.50. to “unknown” since that is the most accurate description of the overall fiscal impact.

Sincerely,

Stinson LLP



Alixandra S. Cossette

ASC:

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities are estimated to have one-time costs of $246,000, ongoing costs of at least $1.5 million annually, initial revenues of $2.8 million to $7 million, and ongoing revenues of at least $9 million to $21 million annually. Local governmental entities estimate ongoing revenues of at least $55,000 annually.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 27, 2021

RECEIVED
OCT 27 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Alixandra Cossette regarding a proposed constitutional amendment to Article III, version 2 (2022-069)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Alixandra Cossette on October 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

RECEIVED
2021 OCT 27 AM 10:33
SECRETARY OF STATE

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures)

Printed Name of Affiant

Street Address of Affiant

City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary

Address of Notary

(Seal)

22-069

NOTICE: The proposed amendment revises Article III of the Constitution by adopting one new section to be known as Article III, Section 39(g).

Be it resolved by the people of the state of Missouri that the Constitution be amended as follows:

Section A. Article III of the Constitution is revised by adopting one new Section to be known as Article III, Section 39(g) to read as follows:

Section 39(g) 1. Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state. Sports Wagering means wagering on professional athletic or sporting events.

2. The Missouri Gaming Commission shall promulgate rules to regulate Sports Wagering including, but not limited to:

(a) Requirements that licensees cooperate with investigations conducted by law enforcement agencies or professional sports leagues;

(b) Standards requiring the use of official league data to determine the outcome of certain types of wagers on a professional athletic or sporting event;

(c) Standards and procedures for licensing excursion gambling boats, sports and entertainment districts, and internet based sports wagering platforms to offer Sports Wagering; and

(d) Rules prohibiting all Sports Wagering activity within a sports and entertainment district unless approved by the professional sports team that plays its home games within the district, except such rules shall not prohibit the sole activity of offering Sports Wagering over the internet via a licensed internet based sports wagering platform that is accessible to persons physically located within the sports and entertainment district. A sports and entertainment district shall be comprised of:

(i) the premises of any facility where a professional sports team plays its home games and the 400 yards surrounding such premises; or

(ii) any area owned or operated by an entity or affiliated entities licensed to sell liquor at retail as an entertainment district pursuant to chapter 311 of the Missouri statutes and such entity or affiliated entities have a verifiable financial investment of more than two hundred million dollars to develop such district, provided, however, that, for purposes hereof, the boundaries of such entertainment district shall not be enlarged after the effective date hereof.

3. (a) Notwithstanding any other provision of law, including Section 39(d), to the contrary, a wagering tax of 10 percent is imposed on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on sports wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair or maintenance of highways, roads or bridges.

(b) The state auditor shall perform an annual audit of the revenues received and appropriated pursuant to this section to ensure they are being used only for authorized purposes. The state auditor shall make such audit available to the public, the governor, and the general assembly.

(c) The additional revenue provided by this section shall not be part of the "total state revenue" within the meaning of Article X, Sections 17 and 18. The expenditure of this additional revenue shall not be an "expense of state government" under Article X, Section 20.

4. Notwithstanding any other provision of law, including Article III, Section 39(9), to the contrary, the general assembly may enact laws consistent with this section.

5. All provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-069)

Subject

Initiative petition from Alixandra Cossette regarding a proposed constitutional amendment to Article III. (Received October 27, 2021)

Date

November 16, 2021

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **State Auditor's office,** and the **Missouri Gaming Commission.**

Alixandra S. Cossette, Attorney, Stinson LLP provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that they could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated this initiative petition may impact revenues received from tax imposed on Sports Wagering but their department has no means to calculate the amount of potential impact.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated their department assumes the increase in gambling opportunities will increase the number of individuals who voluntarily seek treatment for a gambling problem. However, the bill does not mandate that any individual receive treatment and treatment will remain voluntary. Therefore, they assume that expenditures cannot exceed the balance of the Compulsive Gamblers fund and no State General Revenue beyond that balance will be expended.

In fiscal year (FY) 21, their department served approximately 71 consumers through compulsive gambling (CG) treatment services with an average cost of $1,230 per consumer for a total of $87,330.

If the number of consumers served triples, they estimate treatment for 213 consumers with an average cost of $1,230 per treatment episode for a total treatment cost of $261,990. Currently, they have eleven certified compulsive gambling treatment providers; this number would likely need to increase over time along with the need for additional compulsive gambling counselors. They estimate 25 new compulsive gambling counselors will be needed throughout the state, with initial cost for training new counselors estimated at $160 per person for a total of $4,000 for FY 23.

If additional advertising is needed, their department anticipates annual cost for advertising with public service announcements for help with compulsive gambling at $166,400. Total cost to their department would be estimated at $360,325 in FY 23. For FY 24 and beyond, the amount would increase to $432,390 or more based upon the need for compulsive gambling services.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article III, version 2.

Officials from the **Department of Revenue** indicated this is an initiative petition that would go to the vote of the people at the November 2022 general election. If this is not adopted by the people, this would not have a fiscal impact.

Should this be adopted at the November 2022 election, by the time certification of the election occurs, it is assumed this constitutional amendment would have a January 1, 2023 effective date.

This proposal in Section 3.(a) assesses a wagering tax of 10% on the adjusted gross receipts received from sports wagering conducted by licensed entities. This proposal states that 50% of the revenue received from this tax is to be appropriated to support pre-kindergarten through 12th grade educational institutions and 50% of the revenue is to be appropriated for the construction, repair or maintenance of highways, roads or bridges.

This proposal does not specify which organization the Department of Revenue or the Missouri Gaming Commission is to collect this tax. Their department for purposes of the fiscal note will assume that they will be required to collect this tax. For their department to collect the tax they will need 1 Associate Customer Service Representative and creation of a new tax collection database. The costed associated with the full-time equivalent (FTE) employee are:

2023 -$45,339
2024 -$45,680

The Office of Administration - Information Technology Services Division (ITSD) anticipates the creation of a new sports betting tax collection database for their department.

ITSD - DOR							
Bill Number	HB 730	FN #	1112H.02I				
Bill Section(s)	313.1021.						
Application Name:	New System - Sports Betting Tax				**FY2022**	**FY2023**	**FY2024**
IT Consultants		**On-going Yes/No**	**Rate**	**Hours**	**$**	**$**	**$**
Requirements Gathering			95	96	9,120	-	-
Analysis			95	48	4,560	-	-
Design			95	48	4,560	-	-
Development			95	675	64,125	-	-
Test			95	96	9,120	-	-
Implementation			95	16	1,520	-	-
Project Management			95	78.32	7,440	-	-
On-going support			95		-	-	-
Section Total IT Consultants:			95	1,057.32	100,445	-	-

This proposal fails to identify a fund for this tax revenue to be deposited into or the specific funds that are to receive the revenue. Therefore, for the purpose of the fiscal note, their department assumes the revenue will be deposited into the General Revenue Fund.

Using the Oxford Economics report titled "Economic Impact of Legalized Sports Betting," their department believes total state revenue (TSR) will increase. This report breaks out the possible revenue impacts into three categories. They are Limited Availability, Moderate Availability, and Convenient Availability. For the purpose of this fiscal note response, their department utilized the Moderate Availability, due to the proposed legislation allowing sports wagering to occur in any of our casinos, and online. If online would have not been permitted, their department would have used the Limited Availability number, and if it were to be treated like the lottery, Convenient Availability would have been used.

$202,200,000 - $253,300,000 (Moderate Availability Adjusted Gross Receipts (AGR) Estimate per Oxford report)

$20,220,000 - $25,330,000 (10% tax imposed to general revenue)

They also provided the following information:

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: 22-069

BILL:

FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2022	FY 2023	FY 2024
Associate Customer Service Rep	1	$24,360		$24,604	$24,850
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**1**		**1**	**1**	**1**
Total Salaries			**$0**	**$24,604**	**$24,850**
Fringe Benefits				**$20,244**	**$20,327**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2022	FY 2023	FY 2024
Cubicle - w/ Work Surface	580	1	$6,800		$6,800	
Chair	580	1	$596		$596	
Calculator	580	1	$20		$20	
Desktop Comuter System/I	580	1	$1,371		$1,371	
Telephone, Cisco US Stanc	580	1	$525		$525	
sports betting database		1	$100,445		$100,445	
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$0	$109,757	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Expendable Supplies	190	1	$372		$381	$391
Recurring Expenses	480	1	$107		$110	$112
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$491	$503
TOTAL EQUIPMENT AND EXPENSE				$0	$110,248	$503
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2022	FY 2023	FY 2024
Salaries	$0	$24,604	$24,850
Fringe Benefits	$0	$20,244	$20,327
Equipment and Expense	$0	$110,248	$503
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$155,096**	**$45,680**
II. Fund Revenue Sources			
AGR 21% wagering tax		$10,110,000-$12,665,000	$20,220,000-$25,330,000
Fines			
Administrative Sanctions			
Other Sources (Educational Fund)			
TOTAL FUND REVENUE - ALL SOURCES			
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**$9,954,904-$12,509,904**	**$20,174,320-$25,284,320**

Officials from the **Department of Public Safety - Office of the Director** indicated this initiative petition has no impact for their department, Director's Office. The Missouri Gaming Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office.

Response from the Missouri State Highway Patrol:

The Missouri State Highway Patrol's principal concern is the potential number of licensed entities eligible to provide sports wagering. As written, Section 39(g) 1. states in part, "Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state." However, as written, it would allow any of the 341 currently licensed "entities" by the Missouri Gaming Commission to offer sports wagering.

As to the question of the affect to personnel for the Patrol's Gaming Division, it would depend on the number, locations, and level of regulatory/criminal enforcement expected. If the locations are limited to the 13 existing riverboat casinos and/or sports and entertainment districts, the Patrol would need one (1) additional FTE to conduct background investigations. An increase in the number of licensees and physical locations, beyond those listed above, would be an unknown cost, depending on the staffing needs to complete background checks, enforcement of rules, and criminal investigations. In addition, there would be costs for the Patrol's Gaming Division, Enforcement Section, for training related to the changes in the Missouri Constitution.

Missouri State Highway Patrol Expected Costs (Gaming Funds 0286):
1. Training - 120 troopers X $200 training per trooper = $24,000
2. One (1) FTE:
    a. Salary & Fringe = $152,968
    b. Expense & Equipment (one-time costs) = $93,448
    c. Expense & Equipment (on going costs) = $22,139

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to sports gambling should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would appropriate fifty percent (50%) of the taxes collected from sports wagering to highways, roads and bridges. If adopted, each version could have a zero to substantial (but unquantified) positive fiscal impact on the Missouri Department of Transportation

(MoDOT) and the Missouri Highways and Transportation Commission (MHTC). Their department has no specific estimate on revenues that may be generated.

Officials from the **Office of Administration** indicated this proposal relating to sports gambling should not fiscally impact their office.

This proposal would allow any entity licensed by the Missouri Gaming Commission to offer Sports Wagering in this state. The proposal further imposes a wagering tax of 10% on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

Budget & Planning defers to the Missouri Gaming Commission for an estimate of increased revenues. This proposal will not affect total state revenue or Article X, Sections 17 and 18(e).

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of

publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article III, has no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate $5,000 per year in amusement license revenue as well as $50,000 in sales tax revenue. No additional costs. They estimated the $50,000 from other economic sales activity due to the overall legalization of sports gambling, not from the wagering tax. They see the wagering tax as in addition to existing sales taxes and due to the State to be split 50/50 for education and state highways, unless provided future information otherwise (such as State grants to local governments for highways/etc.).

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition proposing to amend Article III, version 2.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the proposed proposition would allow for sports wagering within the state and impose a sports wagering tax of 10% upon the adjusted gross receipts received from sports wagering by a licensed entity. Of the tax imposed, 50% would be allocated to a fund to support educational institutions (pre-K thru 12th grade) and 50% would be allocated for construction and repair or maintenance of highways, roads, or bridges.

While it can be anticipated that the majority of sports wagering activity would occur over the internet, the petition contemplates licensing for sports wagering on excursion gambling boats, sports and entertainment districts as well as internet based sports wagering platforms. Under existing gaming laws RSMo. 313.820 and 313.822, the City of St. Louis as a home dock city receives one half of the state's $2 admission fee and 10% of the state's 21% tax on adjusted gross receipts from its current gaming facilities. The proposed petition does not provide for an allocation of sports wagering revenues to the local home dock city. Thus to any extent that sports wagering becomes a growing share of gambling boat gaming activity, the city would see a reduction in revenues from gaming. Whether this potential loss can be offset from allocations from the aforementioned state funds is not clear.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri System** indicated they believe that this legislation will result in additional cost related to increased monitoring, training, and educational requirements. All previous versions of bills have included sports betting on college sports and they would be surprised if any bill put forward in Missouri would not as virtually every state has to some extent. Even if collegiate sports were excluded from any bill that passed, there would still likely be some increased costs in those areas simply because it would still be prohibited by the National Collegiate Athletic Association (NCAA) for their student-athletes and staff to bet on sports at any level, and they would now have the ability to do so in the state, on their phones, etc. However, it would not likely be as significant a financial impact as it would if betting were allowed on college sports.

Officials from the **State Auditor's office** indicated this proposal would have no fiscal impact on their office. Any impact can be absorbed through current appropriations.

Officials from the **Missouri Gaming Commission** (MGC) indicated:

This proposal will also affect the Missouri State Highway Patrol, the Missouri Department of Revenue, and the Missouri Department of Mental Health, and "sports and entertainment districts" located in St. Louis and Kansas City, as that term is defined in the proposal.

It may have an impact on local jurisdictions and businesses surrounding and in close proximity to the "sports and entertainment districts" located in St. Louis and Kansas City, as that term is defined in the proposal.

They anticipate licensees to pay various fees to the MGC in order to regulate and manage sports wagering in Missouri. It also imposes certain taxes be paid by licensees based on their adjusted gross revenue.

If this initiative petition passes, they estimate needing five new full-time equivalent positions, which would result in an initial cost to the MGC of $547,266.90 (including salary, fringe, supplies, equipment, and travel/lodging related to job performance of those additional employees), in addition to approximately $797,479.38, which represents 2.5% of the MGC existing budget each year (the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering) for a total initial cost of $1,344,706.27. Additional costs included in this estimate may also encompass those associated with the development and implementation of responsible gambling programs and consumer education campaigns. The total annual ongoing personnel cost, after the first year, is estimated to be $1,325,281.17.

The MGC and the Missouri State Highway Patrol (MSHP) currently have a Memorandum of Understanding (MOU) in place which states that the MSHP will provide background

and criminal and regulatory investigation and enforcement support to the MGC to assist it in carrying out its duties, which could result in additional costs.

They estimate a total of 20 applicants for sports wagering licenses, to include the 13 current gambling boats, plus two "sports and entertainment districts" located in St. Louis and Kansas City, as that term is defined in the proposal, and the five Missouri professional sports teams. They estimate eight sportsbook providers would offer the platform for sportsbook wagering; the casinos, professional sports teams, or sports and entertainment districts could utilize the same sportsbook providers.

Based on the number of applicants, they estimate collection of fees between $2.8 and $7 million the first year up to $4.1 to $9.2 million by the fifth year of operation. The fees would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MGC. The estimated range of fees comes from the American Gaming Association's (AGA) State of the States 2021 report,[1] which range from $0 to $10 million. The assumption is that the states with $0 fees have a dedicated funding source other than the fees received.

This proposal sets the wagering tax assessed on the adjusted gross receipts (AGR) received from sports wagering conducted by a licensed entity at 10%. AGR is calculated by starting with total revenue minus winnings, minus voided wagers and uncollectible receivables. They estimated Missouri's licensees' total revenue to be $146,437,962. They then subtracted an estimated amount (2.5% of total revenue) for uncollectible receivables and to cover fees for using official league data, leaving an AGR of $142,777,013. Based on that amount, the MGC estimates the total estimated tax on AGR to be $14,277,701.30 each year, the revenue from which would be equally divided between pre-K through 12th grade educational institution and highways, roads, and bridge funding.

The annual total AGR for Missouri is estimated based on the State of Mississippi's sports wagering totals, minus uncollectibles and fees. Mississippi's Total Revenue from sports betting is the actual total revenue amounts from October 2019 through September 2021.[2] They then determined Mississippi's sports betting revenue was 2.50% of its total gaming revenue. This was calculated by taking $53,631,014 and dividing by $2,141,840,000 ($53,631,014 / $2,141,840,000 =.0250). They then could assume Missouri's sports betting revenue would also be 2.50% of Missouri's total gaming revenue of $1,754,470,000 ($1,754,470,000 x 2.50% = $43,931,389). Mississippi sports betting is limited to bets placed in person at the casinos. They assume that allowing online wagering will significantly increase revenue. Based on the experience in other states, including Pennsylvania and New Jersey, they made the assumption that the estimated $43 million calculated for wagers placed in person at casinos would comprise approximately 30% of

[1] The AGA State of the States 2021 report can be accessed at State of the States 2021 - American Gaming Association (https://www.americangaming.org/resources/state-of-the-states-2021/), specifically pages 1-9, 18, and 64-66.

[2] The State of Mississippi's Gaming Commission reports MGC used to calculate their amounts can be accessed at http://www.msgamingcommission.com/index.php/reports/monthly_reports.

the adjusted gross receipts. Therefore, sports betting revenue would be comprised of 70% mobile wagering and 30% retail wagering if the law would allow mobile wagers to be placed (($43,931,389 x 70%) / 30%) = $102,506,572 = additional revenue).

They assume the revenue from sports wagering will be significantly less based on the language of this proposal which limits sports wagering to "wagering on professional athletic or sports events." Several states allow sports wagering on college events, including the National Collegiate Athletic Association (NCAA) Men's Basketball Championships ("March Madness") and the NCAA Men's Football Championship Bowl Games, in addition to professional sports.

They also provided the following information:

Sports Wagering

Mobile wagers allowed

Position Title	Number of FTE	Annual Salary	Annual Fringes (33.12% plus $14,048)	IT Equipment (one time)	IT Equipment (ongoing)	Desk (one time)	Chair (one time)	File Cabinet (one time)	Calculator (one time)	Office Supplies (ongoing)	Voice/Data Wiring (one time)	Voice/Data (ongoing)	Annual Travel Expenses Related to Job Performance (ongoing)	TOTAL	Second Year and Ongoing
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Program Coordinator	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Admin Support Professional-Lic	**1**	$ 39,469	$ 27,120.13	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 81,891.51**	**$ 78,006.49**
Senior Regulatory Auditor	**1**	$ 55,451	$ 32,413.37	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 103,166.75**	**$ 99,281.73**
TOTAL	**5**	**$ 300,837.59**	**$ 169,877.41**	**$ 8,230.10**	**$ 2,056.80**	**$ 3,005.00**	**$ 3,595.00**	**$ 2,995.00**	**$ 100.00**	**$ 1,860.00**	**$ 1,500.00**	**$ 2,100.00**	**$ 51,070.00**	**$ 547,226.90**	**$ 527,801.80**
								Add additional MGC expense (from Sports Wagering Cost tab):						**$ 797,479.38**	**$ 797,479.38**
								Total estimated annual cost to MGC:						**$ 1,344,706.27**	**$ 1,325,281.17**

Revenue Streams[1]	Number of Applicants or Holders of Sports Wagering AGR [2]	Fee Amount[3]	1st Year	2nd Year	3rd Year	4th Year	5th Year	Fund to Deposit
Certificate of Authority Application Fee (Initially) -Casino	20	100,000-250,000	2,000,000-5,000,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Certificate Holder Administration Fee (Annual after the first year) -Casino	20	75,000-150,000	$ -	1,500,000-3,000,000	1,500,000-3,000,000	1,500,000-3,000,000	1,500,000-3,000,000	Gaming Commission Fund
Certificate Holder Reinvestigation Fee (in the 5th year after sports wagering commenced and each 5th year thereafter)-Casino	20	100,000-250,000	$ -	$ -	$ -	$ -	2,000,000-5,000,000	Gaming Commission Fund
Sports Wagering Platform License Application Fee (Initially)-Sportsbook Provider	8	100,000-250,000	800,000-2,000,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Sports Wagering Platform License Annual Renewal Fee (Annual after the first year)-Sportsbook Provider	8	75,000-150,000	$ -	600,000-1,200,000	600,000-1,200,000	600,000-1,200,000	600,000-1,200,000	Gaming Commission Fund
TOTAL FEES COLLECTED[4]			**2,800,000-7,000,000**	**2,100,000-4,200,000**	**2,100,000-4,200,000**	**2,100,000-4,200,000**	**4,100,000-9,200,000**	

[1] Note: The above collected fees would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MO Gaming Commission, which includes the MSHP Gaming Division expenses.

[2] The Number of Applicants includes 13 current gambling boats plus two (2) entertainment districts in Kansas City plus five (5) professional teams (per MO ATC, 86 convention trade area licenses exist, although we assume only one licensee will meet financial investment of $150 million). The sportsbook providers provide the platform for sportsbook wagering and the casinos, professional sports teams or entertainment districts could utilize the same sportsbook provider.

[3] The range of fee amounts listed comes from AGA's State of the States 2021 report (see tab called 'Other States Fees'). The fees listed on AGA's report range from zero dollars to $10 million. The assumption is that the states with zero dollar fees have a dedicated funding source other than the fees received.

[4] Total Fees Collected are estimates only and are based on the assumption that all casinos and sportbook providers are being approved and licensed at the same time.

MGC Approps	FY 22 Budget		
Appropriation 2990 MGC PS	$ 15,329,912.00	2.50%	$ 383,247.80
Appropriation 2991 MGC E&E	$ 1,731,187.00	2.50%	$ 43,279.68
Appropriation T285 Work Comp	$ 7,323.00	2.50%	$ 183.08
Appropriation T293 OASDHI	$ 1,213,220.00	2.50%	$ 30,330.50
Appropriation T297 MGC Ret	$ 3,448,696.00	2.50%	$ 86,217.40
Appropriation T304 MGC MSHP	$ 2,374,625.00	2.50%	$ 59,365.63
Appropriation T692 Cost Alloc	$ 437,328.00	2.50%	$ 10,933.20
Appropriation 1542 MSHP PS Fringe	$ 7,089,567.00	2.50%	$ 177,239.18
Appropriation 1543 MSHP E&E Fringe	$ 267,317.00	2.50%	$ 6,682.93
	$ 31,899,175.00		$ 797,479.38

Besides the FTE positions and additional costs reflected in the fiscal note, MGC also estimates an additional cost of approximately $797,479 (represents 2.5% of MGC existing budget) each year. $797,479 represents the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering.

Alixandra S. Cossette, Attorney, Stinson LLP provided the following information:

STINSON

Alixandra S. Cossette
ASSOCIATE
DIRECT: 573.556.3612
OFFICE: 573.636.6263
alixandra.cossette@stinson.com

November 5, 2021

Via Electronic Mail to: moaudit@auditor.mo.gov

The Honorable Nicole R. Galloway, CPA
Missouri State Auditor's Office
P.O. Box 869
Jefferson City, Missouri 65102

Re: Initiative Petition 2022-069

Dear Auditor Galloway:

Pursuant to Section 116.175, RSMo, I hereby submit this statement of fiscal impact to aid you and your office in estimating the fiscal impact of Initiative Petition 2022-069. Initiative Petition 2022-069 authorizes sports wagering in Missouri and taxes the adjusted gross receipts of those wagers at a tax rate of 10%. These tax revenues will be split with 50% of the revenues to be appropriated for pre-kindergarten through twelfth grade educational institutions and 50% of the revenue to be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

The fiscal impact described herein has been extrapolated based on the information provided by the Committee on Legislative Research, Oversight Division in fiscal notes for Senate Committee Substitute for Senate Bill 98 (2021), Senate Bill 217 (2021), and Senate Bill 256 (2021).

The Oversight Division based its estimates on information provided by the Missouri Gaming Commission. The Gaming Commission extrapolated from the experience of the state of Mississippi with sports wagering. The Gaming Commission determined that Mississippi's annual revenue from sports wagering was 1.87% of its total revenue from gaming between November 2018 and October 2020.

Assuming that same rate of 1.87% of total annual gaming revenue, the Gaming Commission assumed Missouri's sports wagering revenue would also be 1.87% of total gaming revenue in Missouri. Missouri's total annual gaming revenue is $1,754,470,000. 1.87% of that total is $32,808,589. However, Mississippi only allows wagers to be placed at casinos. In making fiscal estimates, the Gaming Commission assumed that allowing online wagering would significantly increase revenue. Considering experiences in other states, including Pennsylvania and New Jersey, the Gaming Commission assumed that the estimated $32 million calculated for wagers placed in person at casinos would comprise approximately 30% of the annual adjusted gross receipts. Therefore, the additional 70% of revenues would be from mobile wagering or approximately $76,553,374 annually. Therefore, total annual revenue from sports wagering would be $109,361,963.

The initiative petition imposes a tax rate of 10% on these adjusted gross receipts. Based on a tax rate of 10%, tax revenues would be $10,936,196.30 annually.

This analysis indicates that this initiative petition will ensure additional revenues for education and infrastructure. Therefore, I advise you to summarize the annual revenues as $10,936,196.30 to "unknown" since that is the most accurate description of the overall fiscal impact.

Sincerely,

Stinson LLP



Alixandra S. Cossette

ASC:

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities are estimated to have one-time costs of $246,000, ongoing costs of at least $1.5 million annually, initial revenues of $2.8 million to $7 million, and ongoing revenues of at least $13 million to $29 million annually. Local governmental entities estimate ongoing revenues of at least $55,000 annually.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 27, 2021

RECEIVED
OCT 27 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Alixandra Cossette regarding a proposed constitutional amendment to Article III, version 1 (2022-068)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Alixandra Cossette on October 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

RECEIVED
2021 OCT 27 AM 10:32

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures)

Printed Name of Affiant

Street Address of Affiant

City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary

Address of Notary

(Seal)

22-068

NOTICE: The proposed amendment revises Article III of the Constitution by adopting one new section to be known as Article III, Section 39(g).

Be it resolved by the people of the state of Missouri that the Constitution be amended as follows:

Section A. Article III of the Constitution is revised by adopting one new Section to be known as Article III, Section 39(g) to read as follows:

Section 39(g) 1. Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state. Sports Wagering means wagering on professional athletic or sporting events.

2. The Missouri Gaming Commission shall promulgate rules to regulate Sports Wagering including, but not limited to:

(a) Requirements that licensees cooperate with investigations conducted by law enforcement agencies or professional sports leagues;

(b) Standards requiring the use of official league data to determine the outcome of certain types of wagers on a professional athletic or sporting event;

(c) Standards and procedures for licensing excursion gambling boats, sports and entertainment districts, and internet based sports wagering platforms to offer Sports Wagering; and

(d) Rules prohibiting all Sports Wagering activity within a sports and entertainment district unless approved by the professional sports team that plays its home games within the district, except such rules shall not prohibit the sole activity of offering Sports Wagering over the internet via a licensed internet based sports wagering platform that is accessible to persons physically located within the sports and entertainment district. A sports and entertainment district shall be comprised of:

(i) the premises of any facility where a professional sports team plays its home games and the 400 yards surrounding such premises; or

(ii) any area owned or operated by an entity or affiliated entities licensed to sell liquor at retail as an entertainment district pursuant to chapter 311 of the Missouri statutes and such entity or affiliated entities have a verifiable financial investment of more than two hundred million dollars to develop such district, provided, however, that, for purposes hereof, the boundaries of such entertainment district shall not be enlarged after the effective date hereof.

3. (a) Notwithstanding any other provision of law, including Section 39(d), to the contrary, a wagering tax of 21 percent is imposed on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on sports wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair or maintenance of highways, roads or bridges.

(b) The state auditor shall perform an annual audit of the revenues received and appropriated pursuant to this section to ensure they are being used only for authorized purposes. The state auditor shall make such audit available to the public, the governor, and the general assembly.

(c) The additional revenue provided by this section shall not be part of the "total state revenue" within the meaning of Article X, Sections 17 and 18. The expenditure of this additional revenue shall not be an "expense of state government" under Article X, Section 20.

4. Notwithstanding any other provision of law, including Article III, Section 39(9), to the contrary, the general assembly may enact laws consistent with this section.

5. All provisions of this section are severable. If any provision of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-068)

Subject

Initiative petition from Alixandra Cossette regarding a proposed constitutional amendment to Article III. (Received October 27, 2021)

Date

November 16, 2021

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **State Auditor's office,** and the **Missouri Gaming Commission.**

Alixandra S. Cossette, Attorney, Stinson LLP provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that they could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated this initiative petition may impact revenues received from tax imposed on Sports Wagering but their department has no means to calculate the amount of potential impact.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated their department assumes the increase in gambling opportunities will increase the number of individuals who voluntarily seek treatment for a gambling problem. However, the bill does not mandate that any individual receive treatment and treatment will remain voluntary. Therefore, they assume that expenditures cannot exceed the balance of the Compulsive Gamblers fund and no State General Revenue beyond that balance will be expended.

In fiscal year (FY) 21, their department served approximately 71 consumers through compulsive gambling (CG) treatment services with an average cost of $1,230 per consumer for a total of $87,330.

If the number of consumers served triples, they estimate treatment for 213 consumers with an average cost of $1,230 per treatment episode for a total treatment cost of $261,990. Currently, they have eleven certified compulsive gambling treatment providers; this number would likely need to increase over time along with the need for additional compulsive gambling counselors. They estimate 25 new compulsive gambling counselors will be needed throughout the state, with initial cost for training new counselors estimated at $160 per person for a total of $4,000 for FY 23.

If additional advertising is needed, their department anticipates annual cost for advertising with public service announcements for help with compulsive gambling at $166,400. Total cost to their department would be estimated at $360,325 in FY 23. For FY 24 and beyond, the amount would increase to $432,390 or more based upon the need for compulsive gambling services.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article III, version 1.

Officials from the **Department of Revenue** indicated this is an initiative petition that would go to the vote of the people at the November 2022 general election. If this is not adopted by the people, this would not have a fiscal impact.

Should this be adopted at the November 2022 election, by the time certification of the election occurs, it is assumed this constitutional amendment would have a January 1, 2023 effective date.

This proposal in Section 3.(a) assesses a wagering tax of 21% on the adjusted gross receipts received from sports wagering conducted by licensed entities. This proposal states that 50% of the revenue received from this tax is to be appropriated to support pre-kindergarten through 12th grade educational institutions and 50% of the revenue is to be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

This proposal does not specify which organization the Department of Revenue or the Missouri Gaming Commission is to collect this tax. Their department for purposes of the fiscal note will assume that they will be required to collect this tax. For their department to collect the tax they will need 1 Associate Customer Service Representative and creation of a new tax collection database. The costed associated with the full-time equivalent (FTE) employee are:

2023 -$45,339
2024 -$45,680

The Office of Administration - Information Technology Services Division (ITSD) anticipates the creation of a new sports betting tax collection database for their department.

ITSD - DOR							
Bill Number	HB 730	FN #	1112H.02I				
Bill Section(s)	313.1021.						
Application Name:	New System - Sports Betting Tax				**FY2022**	**FY2023**	**FY2024**
IT Consultants		**On-going Yes/No**	**Rate**	**Hours**	**$**	**$**	**$**
Requirements Gathering			95	96	9,120	-	-
Analysis			95	48	4,560	-	-
Design			95	48	4,560	-	-
Development			95	675	64,125	-	-
Test			95	96	9,120	-	-
Implementation			95	16	1,520	-	-
Project Management			95	78.32	7,440	-	-
On-going support			95		-	-	-
Section Total IT Consultants:			95	1,057.32	100,445	-	-

This proposal fails to identify a fund for this tax revenue to be deposited into or the specific funds that are to receive the revenue. Therefore, for the purpose of the fiscal note, their department assumes the revenue will be deposited into the General Revenue Fund.

Using the Oxford Economics report titled "Economic Impact of Legalized Sports Betting," their department believes total state revenue (TSR) will increase. This report breaks out the possible revenue impacts into three categories. They are Limited Availability, Moderate Availability, and Convenient Availability. For the purpose of this fiscal note response, their department utilized the Moderate Availability, due to the proposed legislation allowing sports wagering to occur in any of our casinos, and online. If online would have not been permitted, their department would have used the Limited Availability number, and if it were to be treated like the lottery, Convenient Availability would have been used.

$202,200,000 - $253,300,000 (Moderate Availability Adjusted Gross Receipts (AGR) Estimate per Oxford report)

$42,462,000 - $53,193,000 (21% tax imposed to general revenue)

They also provided the following information:

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: 22-068

BILL:

FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2022	FY 2023	FY 2024
Associate Customer Service Rep	1	$24,360		$24,604	$24,850
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**1**		**1**	**1**	**1**
Total Salaries			**$0**	**$24,604**	**$24,850**
Fringe Benefits				**$20,244**	**$20,327**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2022	FY 2023	FY 2024
Cubicle - w/ Work Surface	580	1	$6,800		$6,800	
Chair	580	1	$596		$596	
Calculator	580	1	$20		$20	
Desktop Comuter System/I	580	1	$1,371		$1,371	
Telephone, Cisco US Stanc	580	1	$525		$525	
sports betting database		1	$100,445		$100,445	
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$0	$109,757	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Expendable Supplies	190	1	$372		$381	$391
Recurring Expenses	480	1	$107		$110	$112
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$491	$503
TOTAL EQUIPMENT AND EXPENSE				$0	$110,248	$503
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2022	FY 2023	FY 2024
Salaries	$0	$24,604	$24,850
Fringe Benefits	$0	$20,244	$20,327
Equipment and Expense	$0	$110,248	$503
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$155,096**	**$45,680**
II. Fund Revenue Sources			
AGR 21% wagering tax		$21,231,000-$26,596,500	$42,462,000-$53,193,000
Fines			
Administrative Sanctions			
Other Sources (Educational Fund)			
TOTAL FUND REVENUE - ALL SOURCES			
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**$21,075,904-$26,441,404**	**$42,416,320-$53,147,320**

Officials from the **Department of Public Safety - Office of the Director** indicated this initiative petition has no impact for their department, Director's Office. The Missouri Gaming Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office.

Response from the Missouri State Highway Patrol:

The Missouri State Highway Patrol's principal concern is the potential number of licensed entities eligible to provide sports wagering. As written, Section 39(g) 1. states in part, "Any entity licensed by the Missouri Gaming Commission may offer Sports Wagering in this state." However, as written, it would allow any of the 341 currently licensed "entities" by the Missouri Gaming Commission to offer sports wagering.

As to the question of the affect to personnel for the Patrol's Gaming Division, it would depend on the number, locations, and level of regulatory/criminal enforcement expected. If the locations are limited to the 13 existing riverboat casinos and/or sports and entertainment districts, the Patrol would need one (1) additional FTE to conduct background investigations. An increase in the number of licensees and physical locations, beyond those listed above, would be an unknown cost, depending on the staffing needs to complete background checks, enforcement of rules, and criminal investigations. In addition, there would be costs for the Patrol's Gaming Division, Enforcement Section, for training related to the changes in the Missouri Constitution.

Missouri State Highway Patrol Expected Costs (Gaming Funds 0286):
1. Training - 120 troopers X $200 training per trooper = $24,000
2. One (1) FTE:
    a. Salary & Fringe = $152,968
    b. Expense & Equipment (one-time costs) = $93,448
    c. Expense & Equipment (on going costs) = $22,139

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to sports gambling should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would appropriate fifty percent (50%) of the taxes collected from sports wagering to highways, roads and bridges. If adopted, each version could have a zero to substantial (but unquantified) positive fiscal impact on the Missouri Department of Transportation

(MoDOT) and the Missouri Highways and Transportation Commission (MHTC). Their department has no specific estimate on revenues that may be generated.

Officials from the **Office of Administration** indicated this proposal relating to sports gambling should not fiscally impact their office.

This proposal would allow any entity licensed by the Missouri Gaming Commission to offer Sports Wagering in this state. The proposal further imposes a wagering tax of 21% on the adjusted gross receipts received from Sports Wagering conducted by a licensed entity. Fifty percent of the revenues received from any tax imposed on Sports Wagering shall be appropriated to support pre-kindergarten through twelfth grade educational institutions and fifty percent of the revenues received from such a tax shall be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

Budget & Planning defers to the Missouri Gaming Commission for an estimate of increased revenues. This proposal will not affect total state revenue or Article X, Sections 17 and 18(e).

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of

publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition proposing to amend Article III, version 1, has no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate $5,000 per year in amusement license revenue as well as $50,000 in sales tax revenue. No additional costs. They estimated the $50,000 from other economic sales activity due to the overall legalization of sports gambling, not from the wagering tax. They see the wagering tax as in addition to existing sales taxes and due to the State to be split 50/50 for education and state highways, unless provided future information otherwise (such as State grants to local governments for highways/etc.).

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition proposing to amend Article III, version 1.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the proposed proposition would allow for sports wagering within the state and impose a sports wagering tax of 21% upon the adjusted gross receipts received from sports wagering by a licensed entity. Of the tax imposed, 50% would be allocated to a fund to support educational institutions (pre-K thru 12th grade) and 50% would be allocated for construction and repair or maintenance of highways, roads, or bridges.

While it can be anticipated that the majority of sports wagering activity would occur over the internet, the petition contemplates licensing for sports wagering on excursion gambling boats, sports and entertainment districts as well as internet based sports wagering platforms. Under existing gaming laws RSMo. 313.820 and 313.822, the City of St. Louis as a home dock city receives one half of the state's $2 admission fee and 10% of the state's 21% tax on adjusted gross receipts from its current gaming facilities. The proposed petition does not provide for an allocation of sports wagering revenues to the local home dock city. Thus to any extent that sports wagering becomes a growing share of gambling boat gaming activity, the city would see a reduction in revenues from gaming. Whether this potential loss can be offset from allocations from the aforementioned state funds is not clear.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri System** indicated they believe that this legislation will result in additional cost related to increased monitoring, training, and educational requirements. All previous versions of bills have included sports betting on college sports and they would be surprised if any bill put forward in Missouri would not as virtually every state has to some extent. Even if collegiate sports were excluded from any bill that passed, there would still likely be some increased costs in those areas simply because it would still be prohibited by the National Collegiate Athletic Association (NCAA) for their student-athletes and staff to bet on sports at any level, and they would now have the ability to do so in the state, on their phones, etc. However, it would not likely be as significant a financial impact as it would if betting were allowed on college sports.

Officials from the **State Auditor's office** indicated this proposal would have no fiscal impact on their office. Any impact can be absorbed through current appropriations.

Officials from the **Missouri Gaming Commission** (MGC) indicated:

This proposal will also affect the Missouri State Highway Patrol, the Missouri Department of Revenue, and the Missouri Department of Mental Health, and "sports and entertainment districts" located in St. Louis and Kansas City, as that term is defined in the proposal.

It may have an impact on local jurisdictions and businesses surrounding and in close proximity to the "sports and entertainment districts" located in St. Louis and Kansas City, as that term is defined in the proposal.

They anticipate licensees to pay various fees to the MGC in order to regulate and manage sports wagering in Missouri. It also imposes certain taxes be paid by licensees based on their adjusted gross revenue.

If this initiative petition passes, they estimate needing five new full-time equivalent positions, which would result in an initial cost to the MGC of $547,266.90 (including salary, fringe, supplies, equipment, and travel/lodging related to job performance of those additional employees), in addition to approximately $797,479.38, which represents 2.5% of the MGC existing budget each year (the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering) for a total initial cost of $1,344,706.27. Additional costs included in this estimate may also encompass those associated with the development and implementation of responsible gambling programs and consumer education campaigns. The total annual ongoing personnel cost, after the first year, is estimated to be $1,325,281.17.

The MGC and the Missouri State Highway Patrol (MSHP) currently have a Memorandum of Understanding (MOU) in place which states that the MSHP will provide background

and criminal and regulatory investigation and enforcement support to the MGC to assist it in carrying out its duties, which could result in additional costs.

They estimate a total of 20 applicants for sports wagering licenses, to include the 13 current gambling boats, plus two "sports and entertainment districts" located in St. Louis and Kansas City, as that term is defined in the proposal, and the five Missouri professional sports teams. They estimate eight sportsbook providers would offer the platform for sportsbook wagering; the casinos, professional sports teams, or sports and entertainment districts could utilize the same sportsbook providers.

Based on the number of applicants, they estimate collection of fees between $2.8 and $7 million the first year up to $4.1 to $9.2 million by the fifth year of operation. The fees would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MGC. The estimated range of fees comes from the American Gaming Association's (AGA) State of the States 2021 report,[1] which range from $0 to $10 million. The assumption is that the states with $0 fees have a dedicated funding source other than the fees received.

This proposal sets the wagering tax assessed on the adjusted gross receipts (AGR) received from sports wagering conducted by a licensed entity at 21%. AGR is calculated by starting with total revenue minus winnings, minus voided wagers and uncollectible receivables. They estimated Missouri's licensees' total revenue to be $146,437,962. They then subtracted an estimated amount (2.5% of total revenue) for uncollectible receivables and to cover fees for using official league data, leaving an AGR of $142,777,013. Based on that amount, the MGC estimates the total estimated tax on AGR to be $29,983,172.72 each year, the revenue from which would be equally divided between pre-K through 12th grade educational institution and highways, roads, and bridge funding.

The annual total AGR for Missouri is estimated based on the State of Mississippi's sports wagering totals, minus uncollectibles and fees. Mississippi's Total Revenue from sports betting is the actual total revenue amounts from October 2019 through September 2021.[2] They then determined Mississippi's sports betting revenue was 2.50% of its total gaming revenue. This was calculated by taking $53,631,014 and dividing by $2,141,840,000 ($53,631,014 / $2,141,840,000 =.0250). They then could assume Missouri's sports betting revenue would also be 2.50% of Missouri's total gaming revenue of $1,754,470,000 ($1,754,470,000 x 2.50% = $43,931,389). Mississippi sports betting is limited to bets placed in person at the casinos. They assume that allowing online wagering will significantly increase revenue. Based on the experience in other states, including Pennsylvania and New Jersey, they made the assumption that the estimated $43 million calculated for wagers placed in person at casinos would comprise approximately 30% of

[1] The AGA State of the States 2021 report can be accessed at State of the States 2021 - American Gaming Association (https://www.americangaming.org/resources/state-of-the-states-2021/), specifically pages 1-9, 18, and 64-66.

[2] The State of Mississippi's Gaming Commission reports MGC used to calculate their amounts can be accessed at http://www.msgamingcommission.com/index.php/reports/monthly_reports.

the adjusted gross receipts. Therefore, sports betting revenue would be comprised of 70% mobile wagering and 30% retail wagering if the law would allow mobile wagers to be placed (($43,931,389 x 70%) / 30%) = $102,506,572 = additional revenue).

They assume the revenue from sports wagering will be significantly less based on the language of this proposal which limits sports wagering to "wagering on professional athletic or sports events." Several states allow sports wagering on college events, including the National Collegiate Athletic Association (NCAA) Men's Basketball Championships ("March Madness") and the NCAA Men's Football Championship Bowl Games, in addition to professional sports.

They also provided the following information:

Sports Wagering

Mobile wagers allowed

Position Title	Number of FTE	Annual Salary	Annual Fringes (33.12% plus $14,048)	IT Equipment (one time)	IT Equipment (ongoing)	Desk (one time)	Chair (one time)	File Cabinet (one time)	Calculator (one time)	Office Supplies (ongoing)	Voice/Data Wiring (one time)	Voice/Data (ongoing)	Annual Travel Expenses Related to Job Performance (ongoing)	TOTAL	Second Year and Ongoing
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Senior Applications Developer	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Program Coordinator	**1**	$ 68,639	$ 36,781.30	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 120,722.88**	**$ 116,837.86**
Admin Support Professional-Lic	**1**	$ 39,469	$ 27,120.13	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 81,891.51**	**$ 78,006.49**
Senior Regulatory Auditor	**1**	$ 55,451	$ 32,413.37	$ 1,646.02	$ 411.36	$ 601.00	$ 719.00	$ 599.00	$ 20.00	$ 372.00	$ 300.00	$ 420.00	$ 10,214.00	**$ 103,166.75**	**$ 99,281.73**
TOTAL	**5**	**$ 300,837.59**	**$ 169,877.41**	**$ 8,230.10**	**$ 2,056.80**	**$ 3,005.00**	**$ 3,595.00**	**$ 2,995.00**	**$ 100.00**	**$ 1,860.00**	**$ 1,500.00**	**$ 2,100.00**	**$ 51,070.00**	**$ 547,226.90**	**$ 527,801.80**
								Add additional MGC expense (from Sports Wagering Cost tab):						**$ 797,479.38**	**$ 797,479.38**
								Total estimated annual cost to MGC:						**$ 1,344,706.27**	**$ 1,325,281.17**

Revenue Streams[1]	Number of Applicants or Holders of Sports Wagering AGR [2]	Fee Amount[3]	1st Year	2nd Year	3rd Year	4th Year	5th Year	Fund to Deposit
Certificate of Authority Application Fee (Initially) -Casino	20	100,000-250,000	2,000,000-5,000,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Certificate Holder Administration Fee (Annual after the first year) -Casino	20	75,000-150,000	$ -	1,500,000-3,000,000	1,500,000-3,000,000	1,500,000-3,000,000	1,500,000-3,000,000	Gaming Commission Fund
Certificate Holder Reinvestigation Fee (in the 5th year after sports wagering commenced and each 5th year thereafter)-Casino	20	100,000-250,000	$ -	$ -	$ -	$ -	2,000,000-5,000,000	Gaming Commission Fund
Sports Wagering Platform License Application Fee (Initially)-Sportsbook Provider	8	100,000-250,000	800,000-2,000,000	$ -	$ -	$ -	$ -	Gaming Commission Fund
Sports Wagering Platform License Annual Renewal Fee (Annual after the first year)-Sportsbook Provider	8	75,000-150,000	$ -	600,000-1,200,000	600,000-1,200,000	600,000-1,200,000	600,000-1,200,000	Gaming Commission Fund
TOTAL FEES COLLECTED[4]			**2,800,000-7,000,000**	**2,100,000-4,200,000**	**2,100,000-4,200,000**	**2,100,000-4,200,000**	**4,100,000-9,200,000**	

[1] Note: The above collected fees would be deposited directly into the Gaming Commission Fund (0286) to account for annual operating expenses incurred by the MO Gaming Commission, which includes the MSHP Gaming Division expenses.

[2] The Number of Applicants includes 13 current gambling boats plus two (2) sports and entertainment districts (one in Kansas City and one in St. Louis) plus five (5) professional teams. The sportsbook providers offer the platform for sportsbook wagering and the casinos, professional sports teams or entertainment districts could utilize the same sportsbook provider.

[3] The range of fee amounts listed comes from AGA's State of the States 2021 report (see tab called 'Other States Fees'). The fees listed on AGA's report range from zero dollars to $10 million. The assumption is that the states with zero dollar fees have a dedicated funding source other than the fees received for licensing.

[4] Total Fees Collected are estimates only and are based on the assumption that all casinos and sportbook providers are being approved and licensed at the same time.

MGC Approps	FY 22 Budget		
Appropriation 2990 MGC PS	$ 15,329,912.00	2.50%	$ 383,247.80
Appropriation 2991 MGC E&E	$ 1,731,187.00	2.50%	$ 43,279.68
Appropriation T285 Work Comp	$ 7,323.00	2.50%	$ 183.08
Appropriation T293 OASDHI	$ 1,213,220.00	2.50%	$ 30,330.50
Appropriation T297 MGC Ret	$ 3,448,696.00	2.50%	$ 86,217.40
Appropriation T304 MGC MSHP	$ 2,374,625.00	2.50%	$ 59,365.63
Appropriation T692 Cost Alloc	$ 437,328.00	2.50%	$ 10,933.20
Appropriation 1542 MSHP PS Fringe	$ 7,089,567.00	2.50%	$ 177,239.18
Appropriation 1543 MSHP E&E Fringe	$ 267,317.00	2.50%	$ 6,682.93
	$ 31,899,175.00		$ 797,479.38

Besides the FTE positions and additional costs reflected in the fiscal note, MGC also estimates an additional cost of approximately $797,479 (represents 2.5% of MGC existing budget) each year. $797,479 represents the average number of hours and expenses to cover the costs of current background investigators, financial investigators, compliance auditors and tax auditors needed to license and regulate sports wagering.

Alixandra S. Cossette, Attorney, Stinson LLP provided the following information:

STINSON

Alixandra S. Cossette
ASSOCIATE
DIRECT: 573.556.3612
OFFICE: 573.636.6263
alixandra.cossette@stinson.com

November 5, 2021

Via Electronic Mail to: moaudit@auditor.mo.gov

The Honorable Nicole R. Galloway, CPA
Missouri State Auditor's Office
P.O. Box 869
Jefferson City, Missouri 65102

Re: Initiative Petition 2022-068

Dear Auditor Galloway:

Pursuant to Section 116.175, RSMo, I hereby submit this statement of fiscal impact to aid you and your office in estimating the fiscal impact of Initiative Petition 2022-068. Initiative Petition 2022-068 authorizes sports wagering in Missouri and taxes the adjusted gross receipts of those wagers at a tax rate of 21%. These tax revenues will be split with 50% of the revenues to be appropriated for pre-kindergarten through twelfth grade educational institutions and 50% of the revenue to be appropriated for the construction, repair, or maintenance of highways, roads, or bridges.

The fiscal impact described herein has been extrapolated based on the information provided by the Committee on Legislative Research, Oversight Division in fiscal notes for Senate Committee Substitute for Senate Bill 98 (2021), Senate Bill 217 (2021), and Senate Bill 256 (2021).

The Oversight Division based its estimates on information provided by the Missouri Gaming Commission. The Gaming Commission extrapolated from the experience of the state of Mississippi with sports wagering. The Gaming Commission determined that Mississippi's annual revenue from sports wagering was 1.87% of its total revenue from gaming between November 2018 and October 2020.

Assuming that same rate of 1.87% of total annual gaming revenue, the Gaming Commission assumed Missouri's sports wagering revenue would also be 1.87% of total gaming revenue in Missouri. Missouri's total annual gaming revenue is $1,754,470,000. 1.87% of that total is $32,808,589. However, Mississippi only allows wagers to be placed at casinos. In making fiscal estimates, the Gaming Commission assumed that allowing online wagering would significantly increase revenue. Considering experiences in other states, including Pennsylvania and New Jersey, the Gaming Commission assumed that the estimated $32 million calculated for wagers placed in person at casinos would comprise approximately 30% of the annual adjusted gross receipts. Therefore, the additional 70% of revenues would be from mobile wagering or approximately $76,553,374 annually. Therefore, total annual revenue from sports wagering would be $109,361,963.

The initiative petition imposes a tax rate of 21% on these adjusted gross receipts. Based on a tax rate of 21%, tax revenues would be $22,966,012.20 annually.

This analysis indicates that this initiative petition will ensure additional revenues for education and infrastructure. Therefore, I advise you to summarize the annual revenues as $22,966,012 to "unknown" since that is the most accurate description of the overall fiscal impact.

Sincerely,

Stinson LLP



Alixandra S. Cossette

ASC:

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities are estimated to have one-time costs of $246,000, ongoing costs of at least $1.5 million annually, initial revenues of $2.8 million to $7 million, and ongoing revenues of at least $25 million to $57 million annually. Local governmental entities estimate ongoing revenues of at least $55,000 annually.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

October 6, 2021

RECEIVED
OCT 07 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XXX (2022-067)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on October 6, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 OCT -6 AM 8:52

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-067

Be it resolved by the people of the state of Missouri that the Constitution be amended:

so that it establishes election integrity procedures to (a) prevent attempts to fraudulently influence Missouri's elections, and (b) instill confidence in Missouri voters in the reported results of its elections.

Article XXX,

Sec. 1. Prohibited Election Conduct

(a) No voting machine may be utilized in any election to count or calculate votes. All ballots shall be paper ballots. All votes shall be counted by hand by the judgment of the human eye. All counting shall occur by two persons.

(b) Any differences or uncertainties in counting by the two shall only be resolved by an individual approved and appointed in advance of the election by the state legislature.

(c) Mail in ballots shall be prohibited, except when requested by a voter in advance and after showing state-issued photo identification or a state-issued driver's license.

(d) All internet connectivity shall be discontinued at any polling place during the entire time votes are cast and counted. In addition, all persons serving in any capacity at a polling location, except observers, shall from the time of poll closing until the vote has been finally and publicly reported check in their cell phones so the counting occurs without the potential bias of any electronic sources of information of vote totals from other locations.

(e) Local law enforcement officials shall prohibit the delivery of boxes of any kind at a polling place from the time the polls are first open for voting until after all votes have been counted and reported.

Sec. 2. Registration Requirements

All registration to vote shall occur on or before 14 days prior to an election day. Such registration shall require the registering voter to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.

Sec. 3. Election Observer and Reporting Requirements

(a) No early voting shall be permitted more than two weeks before election day. All mail in ballots must be received two days before election day. Otherwise, they shall not be counted. Mail in balloting cannot be permitted to delay the announcement of full election totals within four hours after the poll's closing.

(b) All voters in all elections shall be required to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.

(c) All observers in a polling station shall be located within five feet of any station they desire to observe. Observers inside a polling station shall also be permitted to photograph any or all activities they desire. Private citizens outside a polling station shall be permitted to photograph

any and all activity they desire and shall be free from any liability of any kind for such photographing. All photographing shall be understood to include and allow video-taping and the recording of sound and voice.

(d) All ballots shall be counted only at and reported only from the place where the votes are cast.

(e) Under no condition shall the counting of votes be stopped between the time that a poll has closed and four hours thereafter unless completed.

(f) All votes shall be counted and reported within four hours of the time voting has closed. No votes being reported thereafter shall be valid.

(g) All vote totals shall be reported from all locations on the following basis: (a) by 11:59 p.m. of the night before the election (relating to early voting and mail in ballots); (b) at one hour after the scheduled polling closing time; (c) at two hours after the scheduled polling closing time; (d) at three hours after the scheduled polling closing time; and, finally, (e) at four hours after the scheduled polling closing time.

Sec. 4. Legislative Election Authority

(a) The legislature of the state shall have authority in elections for president and vice president of the United States to adjust or void any vote totals it determines appropriate. It may also ignore any vote totals and exercise its right to appoint electors as specified under the United States Constitution.

(b) Any alleged violation of state election law may be remedied by a complaint filed with the state legislature, who shall promptly according to its own procedures review, receive evidence, and make a final ruling on the same.

Sec. 5. Inspection Rights

All registration material, election-related computer files and data bases, and actual ballots cast shall remain available for inspection by representatives of any state party, the legislature, the courts, and any group of 1,000 or more requesting registered voters, for 120 days after the election.

Sec. 6. Election Crimes

(a) Any person (a) voting twice or more times in a single election, or (b) voting on behalf of a deceased person, or (c) voting using another person's name, or (d) voting who is not a United States citizen shall be guilty of treason against the state.

(b) Election officials denying any right to observers to an election shall be guilty of a Class III felony.

(c) Any person who resets or erases any election files or data bases, or destroys or misplaces any ballots prior to the end of the 120-day inspection period shall be guilty of a Class III felony.

(d) Any polling supervisor who fails to report partial and final results on the schedule shall be guilty of a Class III felony.

(e) Any ballot counter who intentionally, with a lack of good faith, causes ballots to be adjudicated shall be guilty of a Class III felony.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-067)

Subject

Initiative petition from Austin Shaffer regarding a proposed constitutional amendment to Article XXX of the Constitution of Missouri. (Received October 6, 2021)

Date

October 26, 2021

Description

This proposal would amend Article XXX of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no fiscal impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated the petition introduces one new class A felony offense and four new election offenses.

Given the relatively rare occurrence of creating an entirely new class A felony offense, their department does not generally estimate an impact from this type of proposal.

The other four offenses created by this proposal are defined using an offense type, Class III felony, which does not exist. If the intention is to create new class III election offenses, these would be misdemeanor offenses and outside the purview of their department.

If the intent is to create new *felony* election offenses, these would be either class I or class II election offenses. Both class I and class II election offenses are punishable with maximum terms of imprisonment of five years. This is comparable to the maximum term of imprisonment of four years associated with a conviction for a class E felony.

For each new nonviolent class E felony, their department estimates one person will be sentenced to prison and two to probation annually. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

Therefore, the potential cumulative impact of the proposal on their department is estimated to be up to an additional eight offenders in prison and an additional 29 offenders on field supervision by fiscal year (FY) 2026.

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	4	4	4	4	4	4	4	4	4	4
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	8	8	8	8	8	8	8	8	8	8
Change (After Legislation - Current Law)										
Admissions	4	4	4	4	4	4	4	4	4	4
Probations	8	8	8	8	8	8	8	8	8	8
Cumulative Populations										
Prison	4	8	8	8	8	8	8	8	8	8
Parole			4	5	5	5	5	5	5	5
Probation	8	16	24	24	24	24	24	24	24	24
Impact										
Prison Population	4	8	8	8	8	8	8	8	8	8
Field Population	8	16	28	29	29	29	29	29	29	29
Population Change	**12**	**24**	**36**	**38**	**38**	**38**	**38**	**38**	**38**	**38**

* If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (DOC) has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole (P&P) is staffed across the entire state.

In December 2019, their department reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be the DOC average district caseload across the state which is 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one full-time equivalent (FTE) staff person. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, their department will use the average caseload figure for that specific type of offender to calculate cost increases/decreases. For instances where the proposed legislation affects a less specific caseload, they project the impact based on prior year(s) actual data for DOC's 48 probation and parole districts.

Their cost of incarceration is $21.251 per day or an annual cost of $7,756 per offender. Their cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

They also provided the following information:

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-067
BILL NO: Article XXX

	# to Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)		Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 1 (10 months)	4	($7,756)	($15,512)		0	$0	($15,512)	8
Year 2 (includes 2% inflation)	8	($7,756)	($63,289)		0	$0	($63,289)	16
Year 3 (includes 2% inflation)	8	($7,756)	($64,555)		0	$0	($64,555)	28
Year 4 (includes 2% inflation)	8	($7,756)	($65,846)		0	$0	($65,846)	29
Year 5 (includes 2% inflation)	8	($7,756)	($67,163)		0	$0	($67,163)	29
Year 6 (includes 2% inflation)	8	($7,756)	($68,506)		0	$0	($68,506)	29
Year 7 (includes 2% inflation)	8	($7,756)	($69,876)		0	$0	($69,876)	29
Year 8 (includes 2% inflation)	8	($7,756)	($71,274)		0	$0	($71,274)	29

	# to Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)		Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 9 (includes 2% inflation)	8	($7,756)	($72,699)		0	$0	($72,699)	29
Year 10 (includes 2% inflation)	8	($7,756)	($74,153)		0	$0	($74,153)	29

Officials from the **Department of Labor and Industrial Relations** indicated:

Pursuant to Chapter 115, RSMo, the Missouri Secretary of State currently oversees the conduct of elections within the State of Missouri.

In addition to the Missouri Secretary of State, this could potentially impact the Missouri Attorney General's Office (enforcement). There is the potential, though unlikely, that this petition could impact the Department of Labor and Industrial Relation's State Board of Mediation (SBM).

Unlikely but potential impact: the petition states that internet connectivity shall be discontinued at any polling place on election days. Small businesses that are adjacent to polling places could potentially experience internet disruption, which would impact what/how much work could be performed on election days.

Article XXX, Section 1 of the petition provides that no voting machine may be utilized "in any election to count or calculate votes" and that "all votes shall be counted by hand by the judgment of the human eye." Although unlikely, this petition could potentially have an adverse impact on the SBM.

The SBM is a quasi-judicial board that administers the Public Sector Labor Law (Sections 105.500 -105.598, RSMo), which covers most public sector employees who seek union representation. The board defines an appropriate bargaining unit of employees based on whether or not they share a community of interest and, if certified, determines majority representation status by conducting a secret ballot election. SBM jurisdiction includes all counties, cities, school districts, special districts, and departments of state government, with a few exceptions.

When read in its entirety, the petition appears to address registered voters who participate in elections for municipal, county, state, and federal offices. Read in this context, there is no impact to the work of the SBM. However, in the event that Article XXX, Section 1 could be read so broadly that it would apply to *any election*, the SBM would need to be prepare to certify in-person, non-electronic elections for public employees seeking bargaining representation. This could impact the number of employees assigned to SBM (currently, there are two full-time equivalent (FTE) employees, as well as expenditures for travel, meals, and lodging throughout Missouri to observe and certify such elections.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department, Director's office.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to elections should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated minimal unknown fiscal impact would happen if there needed to be a committee meeting outside of session. There is also the question if the Legislature would have to convene during the interim and this would be an unknown fiscal impact. They do not know if it would require them to convene outside of session.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition should not have a fiscal impact on their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to elections should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this amendment requires that all future elections in Missouri use paper ballots only, and that all ballots be counted by hand within four hours of the polls closing. Such a requirement will necessitate increased numbers of election judges to assist in the counting process. This is a new responsibility that must be provided for under Article X, Section 21 of the Missouri Constitution.

At the November 2020 general election, at least 3,025,962 ballots were cast statewide. Their assumption is that it will require two teams of judges to process ballots at a rate of one ballot every five minutes (one team to handle and read the ballot, one team to record the votes). Based on this estimation, it would take the equivalent of 126,100 four-hour team shifts to count all ballots. Since there are two judges in each team (one from each major party), this equates to 126,100 judge-days to be paid at an average cost of $125 per election judge (previously obtained by surveying a sample of local election authorities). This process would incur a cost of up to $15,762,500 per election.

If this amendment is passed, this cost would be fully incurred at least once in fiscal year (FY) 23 (April 2023), twice in FY24 (March 2024, April 2024), and three times in FY25 (August 2024, November 2024, April 2025) for a minimum three-year cost of $94,575,000. There would also be additional partially-incurred costs to cover costs of elections outside of the normally-scheduled primary, general, and municipal elections (such as special elections or municipal elections in charter cities/counties). The exact scope of such potential expense is unknown.

Officials from the **Office of the State Public Defender** indicated no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following for this initiative petition:

Costs

- ~$100,000 extra per Primary Election in even years for poll workers to count in time, Section 1(a) and 3(g)
- ~$140,000 extra per General Election in even years for poll workers to count in time, Section 1(a) and 3(g)
- ~$5,000 in Sheriff OT, Section 1(e)
- Total of ~$245,000 every two years in costs

Savings

- ~$40,000 per year in voting machine software maintenance, Section 1(a)
- ~$40,000 per year in voting machine capital outlay, Section 1(a)
- Total of ~$160,000 every two years in savings

Net fiscal impact of $**85,000** in extra costs every two years for the County's pro rata funding of the Election Board.

Officials from **Greene County** indicated the following estimate of costs to their county for this initiative petition:

The aggregate estimated costs to implement this initiative petition (IP) in Greene County range from $539,099.71 to $1,196,070.63 for a Presidential Election.

This aggregate estimate includes all standard election costs, including contract labor for the absentee voting period, and for voter registration, as well as an additional 25% increase in contracted labor costs due to wage inflation. The range is created by calculating the costs across five different implantation scenarios that include variable labor costs and processing speeds. The highest estimation-scenario is derived from an interpretive assumption that restricts the number of tabulating judges to two per polling location, thereby necessitating a corresponding increase in the total number of polling places required to tabulate the ballots timely (on election night).

The total *increase* in costs to implement this IP in Greene County range from $60,129.11 – $717,100.03, depending on which of the above referenced scenarios comes to fruition.

Please find below a summary of the range of estimated cost changes, by category:

	Cost Change By Category		
	Low End		***High End***
Poll Worker Pay	$65,536.00	*to*	$368,690.00
Hand Tabulation	$14,637.00	*to*	$36,592.00
Voter Registration Costs	$7,076.20	*to*	$7,076.20
Elec night/Test teams	($3,099.77)	*to*	$8,480.23
Contract Labor	$6,817.36	*to*	$6,817.36
DS 200	($7,224.78)	*to*	($7,224.78)
Express Vote	$0.00	*to*	$0.00
Phones	$0.00	*to*	$35,153.43
Other Election Expense	$0.00	*to*	$0.00
Postage	$0.00	*to*	$0.00
Clerk Staff Salary	$0.00	*to*	$0.00
Central Supplies - County	$0.00	*to*	$0.00
Elec Srvc Ballot Supplies	$0.00	*to*	$0.00
Polling Place Supplies	$0.00	*to*	$80,653.02
Machine Rental	($35,535.44)	*to*	($35,535.44)
Poll Pad Rental	$0.00	*to*	$119,407.50
Polling Place Rent	$3,199.00	*to*	$54,299.00
Delivery of Supplies	$0.00	*to*	$2,683.64
Legal Notices	$0.00	*to*	$0.00
Custodial Overtime	$0.00	*to*	$0.00
Subtotals	$51,405.57	*to*	$677,092.16
5% Admin Fee	$8,723.54	*to*	$40,007.87
Total Increased Cost of Election	**$60,129.11**	***to***	**$717,100.03**

Officials from the **City of Kansas City** indicated this initiative petition would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **St. Louis County Board of Elections** indicated their impact response is the following:

- **$9.375 million** – To hire Election Day Counters to count Election Day ballots in 4 Hours at each Polling Place.
    - 250 Election workers per polling place
    - 300 Polling Places = 75,000 workers

- 75,000 x 5 hours = 375,000 hours
- 375,000 hours x $25 per hour
- $9.375 million

- **$1.875 million** – To train Election Day Counters (One hour of training)
  - 75,000 workers @ $25 per hour = $1.875 million

- **$555,000** – To hire workers to count Absentee Ballots
  - (We have estimated this number from previous elections)
  - 22,200 Hours @ $25 per hour = $555,000

- **$194,300** – To hire security/officers for Election Day security
  - $36 per hour x 18 hours = $648.00
  - 300 Polling Places = $194,400

- **$300,000** – To hire additional poll workers because electronic poll books cannot be used
  - 4 workers x 300 polling places x $250/day

Total Estimated Cost Per Election: **$12,299,300**

Officials from the **Board of Election Commissioners City of St. Louis** indicated:

This petition proposes several far reaching changes to the election. This response will be limited to the drastic and severe fiscal impact of elements of this petition.

This petition suggests it would improve election security and confidence if

1. All ballots will be counted by hand and human eye;
2. Ballots will be counted, tabulated and reported at the place where the ballots are cast; and
3. All ballots are to be counted and reported within four hours of the polling places closing.

In November of 2020, at the General Election, a total of 134, 886 votes were cast. A team at the St. Louis City Election Board simulated the experience of a bi-partisan team counting a ballot; in an ideal environment, it took the team 140 seconds to count and verify each race on the ballot. Therefore to count all ballots last November it would have taken 18,884,040 seconds, or 314,734 minutes, or 5,246 hours, which divided by 4 (the hours allocated by the petition for counting) meant they would need at a minimum 1311 teams counting feverishly and perfectly, like machines, if you will, to even come close to accomplishing this task. 1311 teams translates to 2622 people. If you paid 2622 people 15 dollars an hour for 4 hours of work, this would come to $157,367. In reality, however, given no shows, the need for teams of judges to address voter intent on poorly marked ballots, you would need double the amount of people, therefore 5244, people for a total of $314,734.

This is the cost of labor alone. The impact on the ability to use many of the 99 polling places they currently use is almost impossible to determine; i.e., whether many of these places would be willing to participate in this endeavor, whether they have the space to house the number of teams necessary to count, etc.

votes cast	134,886
seconds per county each vote	140
total seconds to count all votes	18,884,040
total minutes to count all votes	314,734
total hours to count all votes	5,246
teams needed to count all votes	1,311
total people need to count all votes	2,622
cost at 15 per hour for one hour of counting	39,342
cost for 4 hours	157,367

Officials from the **Platte County Board of Elections** indicated this proposal is blatantly undemocratic, and places technical restrictions under which it becomes impossible to provide election results in the time permitted. It is unserious.

Attempting to satisfy the technical requirements of having all races on all ballots counted and adjudicated by people within 4 hours of polls closing would add more than $100,000 to the cost of each election.

Officials from the **Clay County Board of Election Commissioners** indicated they think the cost for this would be anywhere from $100,000 to $400,000 depending on the type of election. The most concerning about this is the expected results to be done in 4 hours for reporting. In their size jurisdiction there is no way this is feasible, especially if there are multiple candidates and issues on a ballot.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College,** the **Kansas City Board of Election Commissioners,** and the **Jackson County Election Board.**

Fiscal Note Summary

State and local governments estimate ongoing costs of at least $18 million per election, but the total cost is unknown. Local governments estimate savings of at least $80,000 annually and at least $42,000 for each general election in a presidential election year. State governmental entities estimate no savings.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

September 27, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XVII (2022-066)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on September 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is n

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 SEP 27 AM 8:52

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signe _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HA PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____

_____ Signature of Notary

_____ Address of Notary

22-066

Object Clause:

To amend Missouri's Constitution so that it establishes election integrity procedures to (a) prevent attempts to fraudulently influence the State's elections, and (b) instill confidence in Missouri's voters in the reported results of its elections.

Article XVII,

Sec. 1. Prohibited Election Conduct

(1) No voting machine may be utilized in any election to count or calculate votes. All ballots shall be paper ballots. All votes shall be counted by hand by the judgment of the human eye. All counting shall occur by two persons.
(2) Any differences or uncertainties in counting by the two shall only be resolved by an individual approved and appointed in advance of the election by the state legislature.
(3) Mail in ballots shall be prohibited, except when requested by a voter in advance and after showing state-issued photo identification or a state-issued driver's license.
(4) All internet connectivity shall be discontinued at any polling place during the entire time votes are cast and counted. In addition, all persons serving in any capacity at a polling location, except observers, shall from the time of poll closing until the vote has been finally and publicly reported check in their cell phones so the counting occurs without the potential bias of any electronic sources of information of vote totals from other locations.
(5) Local law enforcement officials shall prohibit the delivery of boxes of any kind at a polling place from the time the polls are first open for voting until after all votes have been counted and reported.

Sec. 2. Registration Requirements

(1) All registration to vote shall occur on or before 14 days prior to an election day. Such registration shall require the registering voter to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.

Sec. 3. Election Observer and Reporting Requirements

(1) No early voting shall be permitted more than two weeks before election day. All mail in ballots must be received two days before election day. Otherwise, they shall not be counted. Mail in balloting cannot be permitted to delay the announcement of full election totals within four hours after the poll's closing.
(2) All voters in all elections shall be required to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.
(3) All observers in a polling station shall be located within five feet of any station they desire to observe. Observers inside a polling station shall also be permitted to photograph any or all activities they desire. Private citizens outside a polling station shall be permitted to photograph any and all activity they desire and shall be free from any liability of any kind for such photographing. All photographing shall be understood to include and allow video-taping and the recording of sound and voice.

(4) All ballots shall be counted only at and reported only from the place where the votes are cast.
(5) Under no condition shall the counting of votes be stopped between the time that a poll has closed and four hours thereafter unless completed.
(6) All votes shall be counted and reported within four hours of the time voting has closed. No votes being reported thereafter shall be valid.
(7) All vote totals shall be reported from all locations on the following basis: (a) by 11:59 p.m. of the night before the election (relating to early voting and mail in ballots); (b) at one hour after the scheduled polling closing time; (c) at two hours after the scheduled polling closing time; (d) at three hours after the scheduled polling closing time; and, finally, (e) at four hours after the scheduled polling closing time.

Sec. 4. Legislative Election Authority

(1) The legislature of the state shall have authority in elections for president and vice president of the United States to adjust or void any vote totals it determines appropriate. It may also ignore any vote totals and exercise its right to appoint electors as specified under the United States Constitution.
(2) Any alleged violation of state election law may be remedied by a complaint filed with the state legislature, who shall promptly according to its own procedures review, receive evidence, and make a final ruling on the same.

Sec. 5. Inspection Rights

(1) All registration material, election-related computer files and data bases, and actual ballots cast shall remain available for inspection by representatives of any state party, the legislature, the courts, and any group of 1,000 or more requesting registered voters, for 120 days after the election.

Sec. 6. Election Crimes

(1) Any person (a) voting twice or more times in a single election, or (b) voting on behalf of a deceased person, or (c) voting using another person's name, or (d) voting for president or vice president of the United States who when voting is not a United States citizen shall be guilty of treason against the state.
(2) Election officials denying any right to observers to an election shall be guilty of a Class III felony.
(3) Any person who resets or erases any election files or data bases, or destroys or misplaces any ballots prior to the end of the 120-day inspection period shall be guilty of a Class III felony.
(4) Any polling supervisor who fails to report partial and final results on the schedule shall be guilty of a Class III felony.
(5) Any ballot counter who intentionally, or with a lack of good faith, causes ballots to be adjudicated, and any person who adjudicates ballots after the deadline for full reporting of election results, shall be guilty of a Class III felony.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

September 1, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Article XIV, version 3 (2022-065)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on September 1, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

22-065

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

RECEIVED
2022 AUG 32 AM 8:43
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I,_____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.						
2.						
3.						
4.						
5.						
6.						
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8.						
9.						
10.						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article XIV of the Constitution is revised by adopting one new section to be known as Article XIV, Section 2 to read as follows:

Section 2.

1. Purpose

This section is intended to permit the safe and legal use of cannabis by adults over the age of twenty-one and to reasonably regulate the cultivation, processing, manufacturing, and distribution of cannabis. The people of Missouri have a right to enjoy the benefits of their labor free from unreasonable regulation. This section creates a legal, regulated, and taxed cannabis industry so Missouri businesses can participate in the growing market, and the state can reduce the burden on the budget and criminal justice system caused by the prosecution and incarceration of non-violent cannabis possession and distribution.

This section is intended to make only those changes to Missouri laws that are necessary to protect consumers and businesses in the cannabis industry from civil and criminal penalties; and to allow for the responsible consumption of cannabis, combat illegal underage consumption of cannabis, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed cannabis cultivators, manufacturers, transporters, hospitality establishments, and retailers. This section is not intended to allow for the unregulated public use of cannabis, driving or operating heavy machinery while intoxicated, the use of cannabis in the workplace, or the use of cannabis by persons under twenty-one years of age. This section is not intended to repeal or replace the medical marijuana market.

2. Adult Use of Cannabis by Consumers.

(1) Any person over twenty-one years of age may possess the following amounts of cannabis at any one time:

(a) up to eight ounces of dried unprocessed flower;

(b) up to twenty-eight grams of concentrated resin or extract; and

(c) up to four thousand milligrams of tetrahydrocannabinol in cannabis-infused products.

(2) No individual who is under twenty-one years of age may possess cannabis in any amount unless such individual is in possession of a medical cannabis patient or primary caregiver license issued pursuant to Article XIV Section 1.

(3) A person over twenty-one years of age may cultivate up to twenty-five square feet of flowering canopy of cannabis for adult use in any space owned or leased by said consumer. The space in which cannabis for adult use is being cultivated must be secured against entry by unauthorized individuals including individuals under twenty-one years of age. Such cannabis shall not be provided for sale to any individual but may be sold to a licensed cultivation, manufacturing, or retail facility.

(4) For the purposes of this section, "cannabis" means *Cannabis indica, Cannabis sativa, and Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute cannabis, hemp, or marijuana. “Cannabis” includes resin extracted from the plant and products containing cannabis. "Cannabis" does not include industrial hemp as defined by Federal law or commodities or products manufactured from industrial hemp as defined by Federal law. “Cannabis” does not include parts of the plant that do not contain tetrahydrocannabinol (THC) or the soil or substrate in which the plants were grown.

2. Regulation

(1) The division of alcohol and tobacco within the Missouri department of public safety is hereby authorized to grant or deny state licenses for the cultivation, manufacture, transportation, on-

premises consumption, and sale of cannabis and cannabis containing products and paraphernalia, for any purpose other than those specified in section 1 of this article.

(2) The division is further authorized to promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, transportation, on-premises consumption, and sale of cannabis and cannabis containing products and paraphernalia for any purpose other than those specified in section 1 of this article, and for the enforcement of this section, so long as access to cannabis is not restricted unreasonably and such rules are reasonably necessary for consumer safety or to restrict access to cannabis to only persons over twenty-one years of age.

(3) A rule or regulation shall be presumed to unreasonably restrict access to cannabis if imposes restrictions that are greater than those imposed on the manufacture and sale of alcoholic beverages.

(4) If the division fails to promulgate rules and issue licenses specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(5) The division may charge application or licensure fees to cover the cost of administering the provisions of this section. However, any fees charged shall not exceed two thousand five hundred dollars per license or license application in any single fiscal year. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency.

3. Licensure and Certification

(1) Applications for any cultivation, manufacturing or retail facility license, where the product being cultivated, manufactured, or sold at retail contains cannabis, shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they are able to meet or exceed the requirements of facilities in the regulations promulgated by the division;

(b) All owners have submitted to a fingerprint background check performed not more than ninety days prior to the submission of the application and have not been convicted of any dangerous felonies or for the distribution of controlled substances to a minor;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state; and

(d) The applicant certifies that they will not begin operations until after a commencement inspection as required by the division.

(2) Applications for any entity seeking to be certified to test or transport cannabis, or provide for on-premises consumption of cannabis, shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they are able to meet or exceed the certification standards in the regulations promulgated by the division;

(b) All owners have submitted to a fingerprint background check performed not more than ninety days prior to the submission of the application and have not been convicted of any dangerous felonies or for the distribution of controlled substances to a minor;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state; and

(d) In the case of testing certification, the applicant certifies that they will not begin operations until after a commencement inspection as required by the division.

(3) The division shall begin accepting license and certification applications not later than August 1, 2023. In order to facilitate the initial costs of regulation, the division may accept application fees beginning January 15, 2023 and shall apply such fees to applications submitted after August

1, 2023. Applications for licenses and certifications under this section shall be approved or denied by the division no later than ninety days after their submission. If the division fails to carry out its nondiscretionary duty to approve or deny an application within ninety days, the application or certification is deemed granted for one year or until revoked for good cause.

(4) There shall be no limit on the number of licenses issued by the division.

(5) A single entity may hold multiple licenses or certifications and may operate under such licenses at a single location. However, an on-premises consumption license shall not be issued for a location in which a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility is in operation.

3. Taxation

(1) Application and renewal fees collected by the division shall be used for the administration of this section. If such fees are insufficient to provide for the administration of this section, the division may request additional appropriation through the usual appropriation process.

(2) A tax is hereby levied upon the retail sale of cannabis for adult use sold at cannabis retail facilities within the state.

(a) The tax shall be at a rate of seven and one-half percent of the retail price.

(b) The tax shall be collected by each licensed cannabis retail facility and paid to the department of revenue. After retaining no more than two percent of the amount collected for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the general revenue fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(c) Such tax shall not be levied on wholesale sales of cannabis for adult use or any cannabis which is transferred from a cannabis retail facility to a cannabis cultivation or manufacturing facility.

(3) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of cannabis for adult use.

(4) A local government may impose a retail sales taxes on the retail sale of cannabis for adult use. Such taxes shall be imposed in the same way as provided for other retail sales taxes in law. Local taxes imposed on the retail sale of cannabis for adult use shall not exceed those imposed by the same jurisdiction on the retail sale of alcoholic beverages or other retail sales whichever is higher.

6. Public Safety

(1) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of cannabis. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show the person was actually under the influence.

(2) The legislature may pass criminal statute related to the possession, delivery, or distribution of cannabis in excess of the limits provided for in this section without the appropriate license. However, in no case shall the possession, delivery, or distribution of cannabis in an amount less than two times the limits provided for in this section be deemed a felony unless such delivery or distribution was to a person under twenty-one years of age.

(3) Any individual convicted for a crime related to the possession, delivery, or distribution of cannabis, other than a dangerous felony or the delivery or distribution of cannabis to a person under seventeen years of age and more than two years younger than the person being charged, may file for release from custody and expungement of their criminal record in the jurisdiction in which the conviction occurred. Such release from custody shall be expedited and shall be granted unless the person seeking release is incarcerated for additional crimes. Such expungement shall be granted as a matter of right and shall not affect an individual's ability to seek expungement of other

offenses under the laws of this state. The supreme court shall make available to the public free of charge forms for a release from custody or the expungement of such offenses. The filing fee for a motion or new cause of action under this subsection shall be no more than the filing fee for actions brought in the small claims court of the same jurisdiction.

(4) The presence or the smell of cannabis shall not be sufficient probable cause for a law enforcement officer to detain or search a person for reasons other than a suspected intoxication offense, or to impound or search the vehicle, residence, or other property of a consumer. Any search or arrest warrant issued for violations of this section or other cannabis laws not in conflict with this section shall require evidence of the violation and shall not be issued on the basis of the presence of cannabis alone. No search or arrest warrant shall be issued based on violations of this section or other cannabis laws not in conflict with this section that would allow law enforcement officers to enter a premises without first knocking and announcing their presence and purpose.

7. Local Control

(1) Local governments shall develop and adopt ordinances and policies related to cannabis licensees no later than June 30, 2023. The local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees; create an undue burden on access to consumers; or act to undermine the purposes of this section. An ordinance or policy shall be presumed to impose excessive fees or an undue burden if it imposes fees higher than or restrictions greater than those imposed on the manufacture and sale of alcoholic beverages.

(2) If the local government fails to adopt ordinances and policies specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

8. Other Provisions

(1) All cannabis sold in Missouri shall be tested by a laboratory certified under the laws and regulation of Missouri or the similar laws and regulations of another state if interstate transportation of cannabis and cannabis containing products is not illegal under Federal law.

(2) Individuals and entities who are engaging in the acts permitted by this section and in compliance with division regulations and other provisions of law, shall not be subject to criminal or civil liability or sanctions under Missouri law including but not limited to disciplinary action against a professional license, revocation of probation or parole, denial of public assistance programs or public services, or denial of a license to operate a vehicle, watercraft, or other equipment.

(3) It is the public policy of the state of Missouri that contracts related to cannabis should be enforceable. It is the public policy of the state of Missouri that no contract entered into by any individual or entity shall be unenforceable on the basis that activities related to cannabis may be prohibited by federal law.

(4) No mandatory reporter under the laws of this state shall be required to report the use of cannabis by a parent or prospective parent unless such use is in violation of this section or the parent is actively endangering the health and safety of a child. A prospective foster or adoptive parent shall not be discriminated against for their use of cannabis for non-medical purposes unless such use is in violation of this section or other provisions of law not in conflict with this section.

(5) No elected official shall interfere directly or indirectly with the division's obligations and activities under this section.

9. Severability

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

September 1, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
SEP 01 2021
STATE AUDITORS OFFICE

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Article XIV, version 2 (2022-064)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on September 1, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

22-064

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 AUG 3 AM 8:42
SECRETARY OF STATE

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I,_____ being first duly sworn, say (print names of signers)

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article XIV of the Constitution is revised by amending Section 1, and adopting one new section to be known as Article XIV, Section 2 to read as follows:

Section 1. 1. Purposes.

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the [limited] legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

2. Definitions.

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the department of health and senior services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" or "marihuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp [containing a cropwide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis] as defined by federal law, or commodities or products manufactured from industrial hemp as defined by federal law.

(6) "Marijuana-infused products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(7) "Medical marijuana cultivation facility" means a facility licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

(8) "Medical marijuana dispensary facility" means a facility licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

(9) "Medical marijuana-infused products manufacturing facility" means a facility licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

(10) "Medical marijuana testing facility" means a facility certified by the department to acquire, test, certify, and transport marijuana.

(11) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(12) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(13) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.

(14) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department. Any health care provider licensed under the laws of the state may also serve as a primary caregiver. A qualifying patient may have up to three primary caregivers.

(15) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory

bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(16) "Qualifying patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

3. Creating Patient Access to Medical Marijuana.

(1) In carrying out the implementation of this section, the department shall have the authority to:

(a) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and for the enforcement of this section so long as patient access is not restricted unreasonably and such rules are reasonably necessary for patient safety or to restrict access to only licensees and qualifying patients.

(c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver to ensure that no medical marijuana grown by a medical marijuana cultivation facility or manufactured by a medical marijuana-infused products manufacturing facility is sold or otherwise transferred except by a medical marijuana dispensary facility. The department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities which demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another entity with a transportation certification. The department shall develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation of marijuana. Any entity licensed or certified pursuant to this section shall be allowed to transport cannabis.

(f) The department may charge a fee not to exceed $5,000 for any certification issued pursuant to this section.

(g) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the department under this section;

[(h) Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section, which scoring shall be limited to an analysis of the following:

(i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers;

(ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income qualifying patients;

(iii) site security;

(iv) experience in a legal cannabis market;

(v) in the case of medical marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience;

(vi) the potential for positive economic impact in the site community;

(vii) in the case of medical marijuana cultivation facilities, capacity or experience with agriculture, horticulture, and health care;

(viii) in the case of medical marijuana dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;

(ix) in the case of medical marijuana-infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and

(x) maintaining competitiveness in the marijuana for medical use marketplace.

In ranking applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise regarding these factors. The department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by qualifying patients.]

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the medical marijuana dispensary facility, product display and examination by the qualifying patient and/or primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed or certified pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, [shall] <u>may</u> forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a

fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530;

(i) Security requirements for any premises licensed or certified pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a medical marijuana dispensary facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. The department shall not require any medical marijuana or medical marijuana-infused products to be tested more than once prior to sale.

(4) The department shall issue rules or emergency rules to provide for the certification of and standards for medical marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as medical marijuana testing facilities. No medical marijuana testing facility shall be owned by an entity under substantially common control, ownership, or management as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

(5) The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation

facilities, medical marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

(7) Within one hundred eighty days of December 6, 2018, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within two hundred ten days of December 6, 2018, the department shall begin accepting applications for such identification cards.

(8) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana cultivation facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five medical marijuana dispensary facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana-infused products manufacturing facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(11) Any applicant for a license authorized by this section may prefile their application fee with the department beginning 30 days after December 6, 2018.

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to [six flowering marijuana plants] <u>fifty square feet of canopy space</u> for the [exclusive use] <u>benefit</u> of that qualifying patient. The card shall

be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of [one hundred] twenty-five dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. In no case shall any qualifying patient cultivate more than fifty square feet of canopy space regardless of the number of primary caregivers assigned to said qualifying patient.

(13) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty-day period, provided that limit is not less than four ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the department.

(14) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty-day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. In no case shall the total amount of medical marijuana attributed to a single qualifying patient in the possession of multiple primary caregivers exceed the limit set by the department. Qualifying patients cultivating marijuana for medical use may possess up to a [ninety-day] one year supply, so long as the supply remains secured on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by [imprisonment of up to one year and] a fine of up to two thousand dollars.

[(15) The department may restrict the aggregate number of licenses granted for medical marijuana cultivation facilities, provided, however, that the number may not be limited to fewer than one license per every one hundred thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department may restrict the aggregate number of licenses granted for marijuana-infused products manufacturing facilities, provided, however, that the number may not be limited to fewer than one license per every seventy thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department may restrict the aggregate number of licenses granted for medical marijuana dispensary facilities, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018. Future changes to the boundaries of or the number of congressional districts shall have no impact.]

(18) The department shall begin accepting license and certification applications for medical marijuana dispensary facilities, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after December 6, 2018. Applications for licenses and certifications under this section shall be approved or denied by the department no later than one hundred fifty days after their submission. If the department fails to carry out its nondiscretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(19) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the department. The department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor

index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the department fails to deny and fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their qualifying patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(20) Primary caregivers under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(21) All marijuana for medical use sold in Missouri shall be cultivated in a licensed medical marijuana cultivation facility located in Missouri.

(22) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a medical marijuana-infused products manufacturing facility.

(23) The denial of a license, license renewal, or identification card by the department shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the department shall be subject to judicial review as provided by law.

(24) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(25) The department shall not have the authority to apply or enforce any rule or regulation that would impose an undue burden on any one or more licensees or certificate holders, any qualifying patients, or act to undermine the purposes of this section.

4. Taxation and Reporting.

(1) A tax is levied upon the retail sale of marijuana for medical use sold at medical marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and paid to the department of revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri veterans' health and care fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund", which shall consist of taxes and fees collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount not to exceed twenty percent of net deposits which is necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies

necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri veterans commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri service officer's program, and other services for veterans approved by the commission, including, but not limited to, health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri veterans commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from, and in addition to, any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

(6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

5. Additional Patient, Physician, Caregiver and Provider Protections.

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the department, and transportation of marijuana from a medical marijuana dispensary facility to the qualifying patient's residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid qualifying patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri state board of registration for the healing arts, or its successor agency, for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider, including individuals licensed under chapter 335 or 337 or their successor statutes, shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any

accreditation or licensing board or commission for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A medical marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by nonemancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation [of up to six flowering marijuana plants per patient] in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

6. Legislation.

Nothing in this section shall limit the general assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section.

7. Additional Provisions.

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or entity with a transportation certification shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a nonviolent crime [for which he or she was not incarcerated and that is more than five years old]; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The department may consult with and rely on the records, advice and recommendations of the attorney general and the department of public safety, or their successor entities, in applying this subdivision.

(3) All medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility licenses, entities with medical marijuana testing facility certifications, and entities with transportation certifications shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) No medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including loss of license.

(5) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana", or a "Marijuana-Infused Product". Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty.

(6) No individual shall serve as the primary caregiver for more than [three] <u>ten</u> qualifying patients.

(7) No qualifying patient shall consume marijuana for medical use in a public place, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(8) No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and, if applicable, loss of their identification card, certificate, or license for up to one year.

(9) All qualifying patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. [Two qualifying] Qualifying patients and care givers, who [both] hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. No shared facility may contain more than five thousand square feet of canopy space without obtaining a medical marijuana cultivation facility license. [No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.]

(10) No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

(11) Unless allowed by the local government, no new medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality.

(12) Unless superseded by federal law or an amendment to this Constitution, a physician shall not certify a qualifying condition for a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic, or in another commonly used format. A qualifying patient must obtain a new physician certification at least annually.

(13) A physician shall not issue a certification for the medical use of marijuana for a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. [Only a parent or guardian may serve as a primary caregiver for a nonemancipated qualifying patient under the age of eighteen.] At least one of the primary caregivers for a nonemancipated qualifying patient under the age of eighteen must be a parent or legal guardian. Only the qualifying patient's [parent or guardian] primary caregiver shall purchase or possess medical marijuana for a nonemancipated qualifying patient under the age of eighteen. A [parent or guardian] primary caregiver shall supervise the administration of medical marijuana to a nonemancipated qualifying patient under the age of eighteen.

(14) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(15) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

8. Severability.

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

[9. Effective Date.

The provisions of this section shall become effective on December 6, 2018.]

Section 2.

1. Purpose

This section is intended to permit the safe and legal use of cannabis by adults over the age of twenty-one and to reasonably regulate the cultivation, processing, manufacturing, and distribution of cannabis. The people of Missouri have a right to enjoy the benefits of their labor free from unreasonable regulation. This section creates a legal, regulated, and taxed cannabis industry so Missouri businesses can participate in the growing market, and the state can reduce the burden on the budget and criminal justice system caused by the prosecution and incarceration of non-violent cannabis possession and distribution.

This section is not intended to supplant the medical marijuana market. The medical marijuana market is a necessary and important part of many patients' treatment plans. Care guided by a health care provider is important when cannabis is used in an intensive and therapeutic manner.

This section is intended to make only those changes to Missouri laws that are necessary to protect consumers and businesses in the cannabis industry from civil and criminal penalties; and to allow for the responsible consumption of cannabis, combat illegal underage consumption of cannabis, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed cannabis cultivators, manufacturers, transporters, hospitality establishments, and retailers. This section is not intended to allow for the unregulated public use of cannabis; the operation of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; the use of cannabis in the workplace; or the use of cannabis by persons under twenty-one years of age.

2. Definitions.

(1) "Adult use" means the production, possession, delivery, distribution, transportation, or ingestion of cannabis or a cannabis-infused product, or drug paraphernalia used to ingest cannabis or a cannabis-infused product, by a person over the age of twenty-one for purposes other than those provided for in Article XIV Section 1.

(2) "Cannabis" means *Cannabis indica, Cannabis sativa, and Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute cannabis, hemp, or marijuana. "Cannabis" includes resin extracted from the plant and cannabis-infused products. "Cannabis" does not include industrial hemp as defined by Federal law or commodities or products manufactured from industrial hemp as defined by Federal law. "Cannabis" does not include parts of the plant that do not contain tetrahydrocannabinol (THC) or the soil or substrate in which the plants were grown.

(3) "Cannabis-infused products" means products that are infused with cannabis or an extract thereof and are intended for ingestion other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(4) "Cannabis cultivation facility" means a facility licensed by the division to acquire, cultivate, process, store, package, transport, and sell cannabis to or from a cannabis retail facility, cannabis testing facility, cannabis manufacturing facility, or another cannabis cultivation facility.

(5) “Cannabis hospitality facility” means a facility certified by the division to permit the consumption of cannabis by consumers or qualifying patients on the premises.

(6) "Cannabis manufacturing facility" means a facility licensed by the division to acquire, process, manufacture, produce, store, package, transport, and sell cannabis and paraphernalia used to ingest cannabis as provided for in this section to or from a cannabis retail facility, cannabis testing facility, cannabis cultivation facility, or another cannabis manufacturing facility.

(7) "Cannabis retail facility" means a facility licensed by the division to acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to a consumer, and acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to or from another cannabis retail facility, a cannabis testing facility, cannabis manufacturing facility, or a cannabis cultivation facility.

(8) "Cannabis testing facility" means a facility certified by the division or the division of health and senior services to acquire, test, certify, and transport cannabis.

(9) “Child-Resistant Packaging” means resealable packaging that is opaque and is designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use.

(10) “Consumer” means a natural person over the age of twenty-one.

(11) “Delivery” means the delivery of cannabis from a cannabis retail facility to a consumer.

(12) “Disqualifying felony” means any dangerous felony as defined by the laws of this state, but shall not include any felony which is based on the possession or distribution of cannabis unless such act included the distribution of cannabis to a person under the age of seventeen and more than two years younger than the person being charged.

(13) “Division” means the division of alcohol and tobacco control within the department of public safety, or its successor division.

(14) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(15) "Flowering plant" means a cannabis plant from the time it shows physical signs of flowering or budding out of the nodes of the stem through harvest.

(16) “Historically Marginalized Population” means African American and Hispanic populations.

(17) “Ingest” means any method of introducing cannabis or its chemical components into the human body including but not limited to:

(a) Ingestion of capsules, teas, oils, and other cannabis-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories; or

(e) Consuming cannabis-infused food products.

(18) “Local Government” means a county, township, city, town, village, or municipality.

(19) “Transportation” means the movement of cannabis between licensed facilities. “Transportation” includes the delivery of cannabis to a cannabis retail facility but does not include delivery of cannabis directly to a consumer.

3. Regulation

In carrying out the implementation of this section, the division shall have the authority to:

(1) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, transportation, delivery, and hospitality of cannabis for adult use in accordance with this section; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(2) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, sale, transportation, and delivery of cannabis for adult use, and for the enforcement of this section, so long as access is not restricted unreasonably and such rules are reasonably necessary for consumer safety or to restrict access to only persons over twenty-one years of age. Such rules may include provisions related to:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the division;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary;

(e) Creation of a range of administrative penalties for use by the division;

(f) Prohibition of misrepresentation and unfair practices;

(g) Regulation of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the cannabis retail facility, product display and examination by a consumer, listings in business directories including online directories and phone books, listings in cannabis-related publications and websites, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of identification cards for entities licensed or certified pursuant to this section, including a fingerprint-based criminal background check for owners, officers, and managers of such entities.

(i) Develop such forms, certificates, licenses, and applications, which may be provided in electronic or digital format, as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(j) Requirements for any entity licensed or certified by the division to create and follow security policies that prevent access to cannabis by any person under the age of twenty-one; prevent entry by any person not authorized by the division or the license holder into areas where cannabis is being cultivated, manufactured, or stored; and provide immediate notice to the entity or their designated agent of any attempt by a person to gain unauthorized or illegal access to cannabis or any area where cannabis is being cultivated, manufactured, or stored;

(k) Regulation of the storage of, warehouses for, and transportation of cannabis for adult use;

(l) Sanitary requirements for, including, but not limited to, the preparation of cannabis-infused products;

(m) The specification of acceptable forms of identification that a cannabis retail facility may accept when verifying a sale;

(n) Labeling and packaging standards that require child-resistant packaging provided that the rules may not unreasonably restrict branding and marketing information that is not misleading and is

designed to make a product recognizable and distinguish it from similar products sold by competitors;

(o) Records to be kept by licensees and the required availability of the records;

(p) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(q) The reporting and transmittal of tax payments;

(r) Authorization for the division of revenue to have access to licensing information to ensure tax payment and the effective administration of this section;

(s) Ensure an adequate supply of cannabis for medical use, including but not limited to regulations that require facilities to maintain an adequate supply of cannabis for medical use based on sales history and requiring contracts to supply cannabis for medical use to take precedence over contracts to supply cannabis for adult use; and

(t) Such other matters as are necessary for the fair, impartial, and comprehensive administration of this section.

(3) Require a seed-to-sale tracking system that tracks cannabis from either the seed or immature plant stage until the cannabis is sold to a consumer to ensure that no cannabis grown by a cannabis cultivation facility or manufactured by a cannabis manufacturing facility is sold or otherwise transferred to a consumer except by a cannabis retail facility or certified delivery entity. The division shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees. The division may coordinate with the department of health and senior services to utilize the same seed to sale tracking system as is used to track marijuana for medical use;

(4) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the division under this section.

(5) If the division fails to promulgate rules and issue licenses specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(6) The division shall not have the authority to apply or enforce any rule or regulation that would require additional fees for applicants, license holders, or certificate holders; impose an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose an undue burden if it imposes restrictions that are greater than those imposed on the manufacture and sale of alcoholic beverages.

4. Licensing

(1) Cannabis transportation and delivery certifications may be issued as follows. The division shall certify entities which demonstrate compliance with its transportation and delivery standards to transport or deliver cannabis. The division shall issue standards for the secure transportation and delivery of cannabis. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation and delivery of cannabis but shall not impose standards that make the transportation or delivery of cannabis impracticable. There shall be no additional fee for a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility to be certified for transportation or delivery.

(2) Cannabis testing certification and standards may be issued as follows. The division shall certify cannabis testing facilities which demonstrate compliance with its rules for independent testing and certification of cannabis. The division shall issue rules or emergency rules establishing standards for a cannabis independent testing and certification program for cannabis licensees and requiring licensees to test cannabis using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. However, the rules shall not

impose any requirements that make it impracticable for an otherwise qualified facility to obtain certification. The division shall not require any cannabis to be tested more than once prior to sale. No cannabis testing facility shall be owned by an entity under substantially common control, ownership, or management as a cannabis cultivation, manufacturing, or retail facility licensed under this section or a medical marijuana cultivation, manufacturing, or dispensary facility licensed under Article XIV section 1. Testing facilities licensed under Article XIV section 1 shall be automatically certified to test cannabis under the rules issued by the division for the testing of cannabis for adult use.

(3) Cannabis hospitality facility certification may be issued as follows. The division shall certify entities which demonstrate compliance with its hospitality standards to allow for the consumption of cannabis on its premises. The division shall issue standards for the safe consumption of cannabis at locations other than a private residence. The standards shall allow for the facility to sell or provide food and beverages, including alcoholic beverages. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the safe consumption of cannabis at a location other than a private residence, but shall not impose standards that make the operation of a cannabis hospitality facility impracticable.

(4) Cannabis cultivation facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to grow cannabis as a cannabis cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single location. Each facility may be limited by the division to not less than thirty thousand square feet of flowering plant canopy space. Facilities may choose to grow indoors using artificial light, outdoors, in a greenhouse utilizing a combination of artificial and natural light, or any combination of methods. The license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana cultivation facility may also apply for a cannabis cultivation facility license at the same location.

(5) Cannabis manufacturing facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana manufacturing facility may also apply for a cannabis manufacturing facility license at the same location.

(6) Cannabis retail facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis retail facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana dispensary facility may also apply for a cannabis retail facility license at the same location.

(7) The division may charge an application or renewal fee for each license type not to exceed two thousand five hundred dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency. Applications re-submitted after a denial shall not be charged an additional application fee, but may be charged a fee of not more than five hundred dollars for a re-submitted application.

(8) The division may charge a certification and renewal fee for each certification type not to exceed one thousand dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency.

(9) An entity may apply for a reduced application or renewal fee. The division shall develop rules to determine the eligibility of an applicant for a reduced fee. The rules shall include consideration for entities:

(a) locating in an area that has an unemployment rate above the national average;

(b) locating in an area that has been designated as an Economic Disadvantaged Zone by the US Division of Commerce;

(c) owned and operated by individuals in protected classes;

(d) owned and operated by veterans;

(e) owned or operated by an entity that was previously denied a medical marijuana facility license based on application score; or

(f) any other factors that would promote the inclusion of small and locally owned businesses and individuals in historically marginalized groups.

(10) All owners, officers, managers, and employees of entities licensed or certified pursuant to this section, shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, may forward the fingerprints to the Federal Bureau of Investigation(FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530. Notwithstanding the provisions of section 610.120, all records related to any criminal history information shall be available to the division. The criminal background check may be requested by the applicant or employer and performed up to ninety days prior to the submission of an application for license, certification, or employment.

(11) The division shall maintain the confidentiality of information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any customer information, or any other records that are exempt from public inspection pursuant to state or federal law. Such information may be used only for a purpose authorized by this section.

(12) The division shall begin accepting license and certification applications not later than August 1, 2023. In order to facilitate the initial costs of regulation, the division may accept application fees beginning January 15, 2023 and shall apply such fees to applications submitted after August 1, 2023. Applications for licenses and certifications under this section shall be approved or denied by the division no later than ninety days after their submission. If the division fails to carry out its nondiscretionary duty to approve or deny an application within ninety days, the application or certification is deemed granted for one year or until revoked for good cause.

(13) There shall be no limit on the number of facility licenses or certifications issued by the division.

(14) Applications for any facility license shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and site security plan;

(ii) A seed to sale tracking system;

(iii) A method for verifying the age or medical marijuana status of any consumer;

(iv) Employment policies that are non-discriminatory and require fingerprint background checks prior to beginning employment at the facility;

(v) A plan to dispose of excess product in the event of the facility closing which may be satisfied by a plan to sell or donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where un-packaged cannabis flower or cannabis-infused products are being prepared or packaged;

(vii) Labeling and packaging policies that are not misleading, are not likely to be confused with non-cannabis containing products, and are designed to make a product recognizable and distinguish it from similar products sold by competitors;

(viii) Record retention policy that allows for the inspection of records of purchases and sales for at least the preceding twenty-four months; and

(ix) Certification that any contracts to supply cannabis for medical use will take precedence over contracts to supply cannabis for adult use.

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(d) The applicant has verified its anticipated location is properly zoned and not within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church; and

(e) The applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(15) Applications for any transportation, delivery, testing, or hospitality certification shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and security plan suitable to the type of certification;

(ii) For testing certifications, an inventory tracking system;

(iii) For hospitality and delivery certifications, a method for verifying the age or medical marijuana patient status of any consumer;

(iv) Employment policies that are non-discriminatory;

(v) A plan to dispose of unused or undelivered product which may be satisfied by a plan to donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where cannabis flower or cannabis-infused products are being tested or consumed;

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(e) For testing facilities, the applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(16) A single entity may hold multiple licenses or certifications and may operate under such licenses at a single location. However, a cannabis hospitality facility certification shall not be issued for a location in which a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility is in operation.

(17) Facilities licensed under Article XIV Section 1 may also apply for and be granted licenses and certifications under this section.

5. Taxation and Funding

(1) Application and renewal fees collected by the division shall be used for the administration of this section. If such fees are insufficient to provide for the administration of this section, the division may apply to the Missouri Economic Recovery and Growth Fund for a cash operating transfer which shall be repaid as provided by law.

(2) A tax is hereby levied upon the retail sale of cannabis for adult use sold at cannabis retail facilities within the state.

(a) The tax shall be at a rate of seven and one-half percent of the retail price.

(b) The tax shall be collected by each licensed cannabis retail facility and paid to the department of revenue. After retaining no more than two percent of the amount collected for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri Economic Recovery and Growth Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(c) Such tax shall not be levied on wholesale sales of cannabis for adult use or any cannabis which is transferred from a cannabis retail facility to a cannabis cultivation or manufacturing facility.

(3) There is hereby created in the state treasury the "Missouri Economic Recovery and Growth Fund", which shall consist of taxes collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the division in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) One-third of all monies collected shall be distributed to state agencies and political subdivisions for:

(i) the provision and expansion of internet access as a public utility;

(ii) the repair and improvement of existing roads and bridges; or

(iii) the repair and improvement of other public utility services including but not limited to water, sewer, and electricity; and

(b) One-third of all monies collected shall be distributed by the division, with the input of an advisory board at least one third of whose members are health care professionals with experience in the medical use of cannabis, through grants to state agencies, educational institutions, and not-for-profit organizations to:

(i) increase access to evidence-based low-barrier drug addiction treatment; to support drug overdose prevention and reversal education;

(ii) support job placement, housing, and ongoing counseling for those with substance abuse disorders; or

(iii) to provide free legal assistance to individuals seeking to expunge a criminal record or who have been charged with a drug-related crime;

(iv) provide funding for research into the effects of cannabis on the human body, detection of active tetrahydrocannabinol (THC) levels in the human body, and the potential uses of cannabis in psychiatric or substance abuse treatment; and

(c) One-third of all monies collected shall be distributed by the division through grants to not-for-profit organizations that:

(i) provide zero percent interest rate loans or grants to small businesses that are owned by individuals who are members of a historically marginalized population; or

(ii) provide cannabis industry training programs for incarcerated or formerly incarcerated individuals.

(4) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing funding.

(5) The unexpended balance existing in the Missouri Economic Recovery and Growth Fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund until the end of the 2028 fiscal year.

(6) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of cannabis for adult use.

(7) The fees and taxes provided for in this Article XIV, Section 2 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(8) A local government may impose a retail sales taxes on the retail sale of cannabis for adult use. Such taxes shall be imposed in the same way as provided for other retail sales taxes in law. Local taxes imposed on the retail sale of cannabis for adult use shall not exceed those imposed by the same jurisdiction on the retail sale of alcoholic beverages or other retail sales whichever is higher.

(9) Any consumer who presents a duly issued medical marijuana patient identification card or a medical marijuana primary caregiver identification card shall not pay the sales tax provided for in this section, but shall pay the sales tax required for medical marijuana sales in Article XIV Section 1.

6. Public Safety

(1) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of cannabis.

(2) A criminal conviction for an intoxication related offense shall require a showing that the person was actually impaired at the time the offense occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show actual impairment.

(3) An allegation of negligence while under the influence of cannabis shall require a showing that the person was actually under the influence of cannabis at the time the negligence occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show the person was actually under the influence.

(3) A consumer may cultivate up to twenty-five square feet of flowering canopy of cannabis for adult use in any space owned or leased by said consumer. The space in which cannabis for adult use is being cultivated must be secured against entry by unauthorized individuals including individuals under twenty-one years of age. Such cannabis shall not be provided for sale to any individual but may be sold or donated through the compassionate care program established in this section.

(4) A consumer may possess the following amounts of cannabis at any one time:

(a) up to eight ounces of dried unprocessed flower;

(b) up to twenty-eight grams of concentrated resin or extract; and

(c) up to four thousand milligrams of tetrahydrocannabinol in cannabis-infused products.

(5) No individual who is under twenty-one years of age may possess cannabis in any amount unless such individual is in possession of a medical marijuana patient or primary caregiver license issued pursuant to Article XIV Section 1.

(6) The legislature may pass criminal statute related to the possession, delivery, or distribution of cannabis in excess of the limits provided for in this section without the appropriate license. However, in no case shall the possession, delivery, or distribution of cannabis in an amount less than two times the limits provided for in this section be deemed a felony unless such delivery or distribution was to a person under twenty-one years of age. Any existing laws which criminalize possession, delivery, or distribution of cannabis in amounts less than the limits provided for in this section are hereby declared null and void unless such delivery or distribution was to a person under twenty-one years of age.

(7) Any individual convicted for a crime related to the possession, delivery, or distribution of cannabis, other than a dangerous felony or the delivery or distribution of cannabis to a person under seventeen years of age and more than two years younger than the person being charged, may file for release from custody and expungement of their criminal record in the jurisdiction in which the conviction occurred. Such release from custody shall be expedited and shall be granted unless the person seeking release is incarcerated for additional crimes. Such expungement shall be granted as a matter of right and shall not affect an individual's ability to seek expungement of other offenses under the laws of this state. The supreme court shall make available to the public free of charge forms for a release from custody or the expungement of such offenses. The filing fee for a motion or new cause of action under this subsection shall be no more than the filing fee for actions brought in the small claims court of the same jurisdiction.

(8) The presence or the smell of cannabis shall not be sufficient probable cause for a law enforcement officer to detain or search a person for reasons other than a suspected intoxication offense, or to impound or search the vehicle, residence, or other property of a consumer. Any search or arrest warrant issued for violations of this section or other cannabis laws not in conflict with this section shall require evidence of the violation and shall not be issued on the basis of the presence of cannabis alone. No search or arrest warrant shall be issued based on violations of this section or other cannabis laws not in conflict with this section that would allow law enforcement officers to enter a premises without first knocking and announcing their presence and purpose.

(9) The division shall develop in coordination with the Missouri department of health and senior services a compassionate care program through which cannabis may be tested and sold or donated to a cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility by any consumer, cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility. Any facility that receives excess cannabis through such program must make any cannabis received through the program available free of charge to qualifying patients and primary caregivers who meet financial need and health necessity criteria. Each facility may develop its own criteria, but in no case shall cannabis be provided free of charge to any individual who is not in possession of a medical marijuana patient or primary caregiver identification card.

7. Local Control

(1) Unless allowed by the local government, no new cannabis cultivation facility, cannabis testing facility, cannabis retail facility, or cannabis manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. A local government may allow for a location closer than one thousand feet but may not impose any restriction greater than one thousand feet.

(2) No local government shall prohibit cannabis cultivation facilities, cannabis testing facilities, cannabis manufacturing facilities, or cannabis retail facilities, or entities with a transportation or hospitality certification from operating within the locality either expressly or through the enactment of ordinances, including but not limited to zoning ordinances, or regulations that make their operation unduly burdensome in the locality. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality so long as such ordinances or regulations are not more restrictive than those imposed on the manufacture or sale of alcoholic beverages.

(3) Local governments shall develop and adopt ordinances and policies related to cannabis facilities and certificate holders no later than June 30, 2023. The local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose excessive fees or an undue burden if it imposes fees higher than or restrictions greater than those imposed on the manufacture and sale of alcoholic beverages.

(4) If the local government fails to adopt ordinances and policies specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the location and licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(3) Local governments may require cannabis cultivation facilities, cannabis manufacturing facilities, cannabis retail facilities, cannabis transportation or delivery certificate holders, cannabis hospitality certificate holders to be licensed businesses under the local ordinances. However no local government shall require an additional fee to be paid or additional special license to be acquired by a cannabis license or certificate holder that is not required for other businesses in the jurisdiction.

(4) A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality so long as such penalties are not greater than those imposed on the manufacture or sale of alcoholic beverages.

8. Other Provisions

(1) All cannabis for adult use sold in Missouri shall be cultivated in a licensed cultivation facility located in Missouri or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis.

(2) All cannabis-infused products for adult use sold in the state of Missouri shall be manufactured in a licensed manufacturing facility or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis-infused products.

(3) A cannabis testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the adult use of cannabis consistent with this section and otherwise meeting legal standards of professional conduct.

(4) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for being employed by, contracting with, or providing legal assistance to facilities licensed or certified under this section, entities applying for licensing or certification under this section, or any individual seeking legal advice related to activity that is no longer subject to civil or criminal penalties under state law pursuant to this section.

(5) Except as provided for by this section, actions and conduct by consumers, facilities licensed or certified under this section, or the employees, contractors, vendors, or agents of facilities licensed or certified under this section, as permitted by this section and in compliance with division regulations and other provisions of law, shall not be subject to criminal or civil liability or sanctions under Missouri law including but not limited to disciplinary action against a professional license, revocation of probation or parole, denial of public assistance programs or public services, or denial of a license to operate a vehicle, watercraft, or other equipment.

(6) It is the public policy of the state of Missouri that contracts related to cannabis for adult use that are entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis

hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to cannabis may be prohibited by federal law.

(7) No mandatory reporter under the laws of this state shall be required to report the adult use of cannabis by a parent or prospective parent unless such use is in violation of this section or the parent is actively endangering the health and safety of a child. A prospective foster or adoptive parent shall not be discriminated against for their use of cannabis for non-medical purposes unless such use is in violation of this section or other provisions of law not in conflict with this section.

(8) The denial of a license, license renewal, or identification card by the division shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the division shall be subject to judicial review as provided by law.

(9) No elected official shall interfere directly or indirectly with the division's obligations and activities under this section.

9. Severability

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

Michael L. Parson
Governor

Paul Kirchhoff
Executive Director

MISSOURI VETERANS COMMISSION

205 Jefferson Street, P.O. Drawer 147, Jefferson City, MO 65102-0147
Telephone: (573) 751-3779 www.mvc.dps.mo.gov Fax: (573) 751-6836

September 7, 2021

The Honorable John R. Ashcroft
Secretary of State
600 W. Main Street
Jefferson City, MO 65101

Dear Secretary of State Ashcroft,

Initiative Petition 2022-064 (hereinafter, the Petition) will have a disastrous fiscal impact upon the Missouri Veterans Commission. Under the existing medical marijuana program (Article XIV of the Missouri Constitution), we anticipate receiving $6.8 million dollars in fiscal years 2022 through 2026 from the tax revenues generated from the retail sales of medical marijuana. The Petition makes some changes to that program which would adversely impact the Commission, but its most severe impact to the Commission is in the creation of a non-medical marijuana program (the proposed Article XIV, section 2 to the Missouri Constitution).

The medical marijuana program is predicated on medical need and the physician certification that marijuana is the appropriate treatment for that medical need. Conversely, the non-medical marijuana program has no requirement for medical need or for physician certification. Notwithstanding the assertion in the Petition that the non-medical marijuana program is not intended to supplant the medical marijuana program, we anticipate that is prescisely what will occur should the Petition become law. It is only common sense that those wishing to use marijuana products will forego the inconvenience of establishing medical need and obtaining a physician's certification and avail themselves of the non-medical program should one exist regardless of their reason for wanting to use marijuana products. Therefore, we anticipate a significant reduction in the tax revenues generated by the medical marijuana program, perhaps as high as a 90% reduction, should the Petition become law.

Moreover, given the significantly different distribution of tax revenues provided for under the non-medical marijuana program, we cannot anticipate tax revenues generated under the non-medical program to defray the reduction we would experience under the medical marijuana program. Specifically, the medical marijuana program establishes a 4% tax on all retail sales of medical marijuana and allocates to the Commission all of those proceeds minus 5% to the Department of Revenue and an amount to the Department of Health and Senior Services necessary to defray their costs in regulating the program. The Petition changes this arrangement to cap the amount which may be retained by the Department of Health and Senior Services at twenty percent. Further, the Petition proposes a significant change to paragraph 3(12) to dramtically expand the rights of patients to cultivate their own marijuana which is not subject to

taxation. Therefore, should the Petition become law, we anticipate a significant decrease in tax revenues allocated to the Commission through the Veterans Health and Care Fund.

Conversely, the non-medical marijuana program establishes a 7 ½ % tax on all retail sales of non-medical marijuana and allocates those proceeds to the "Missouri Economic Recovery and Growth Fund" minus 2% for the Department of Revenue. The monies in the "Missouri Economic Recovery and Growth Fund" are available to private and state agencies, but for purposes in which the Commission does not engage. Therefore, the Commission would not receive any tax revenues under the non-medical marijuana program and would see a disastrous reduction in the revenues it receives under the medical marijuana program.

In closing, Initiative Petition 2022-064 will adversely impact the ability of the Missouri Veterans Commission to serve the veterans of Missouri for the reasons set forth above. If I can be of any further assistance on this issue, please contact me at (573) 522-4224 at your convenience.

Sincerely,

Scotty L. Allen
General Counsel
Missouri Veterans Commission

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University, Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** and the **Metropolitan Police Department - City of St. Louis.**

Fiscal Note Summary

State governmental entities estimate initial costs of $4 million, annual costs of $7 million, and annual revenues ranging from $26 million to $125 million by 2025. Local governments are estimated to have annual costs of at least $35,000 and annual revenues ranging from $13 million to $21 million by 2025.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

September 1, 2021

RECEIVED
SEP 01 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Article XIV, version 1 (2022-063)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on September 1, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

22-063

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.



[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I,_____ being first duly sworn, say (print names of signers)

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article XIV of the Constitution is revised by amending Section 1, and adopting one new section to be known as Article XIV, Section 2 to read as follows:

Section 1. 1. Purposes.

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the [limited] legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

2. Definitions.

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the department of health and senior services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" or "marihuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp [containing a cropwide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis] as defined by federal law, or commodities or products manufactured from industrial hemp as defined by federal law.

(6) "Marijuana-infused products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(7) "Medical marijuana cultivation facility" means a facility licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

(8) "Medical marijuana dispensary facility" means a facility licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

(9) "Medical marijuana-infused products manufacturing facility" means a facility licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

(10) "Medical marijuana testing facility" means a facility certified by the department to acquire, test, certify, and transport marijuana.

(11) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(12) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(13) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.

(14) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department. Any health care provider licensed under the laws of the state may also serve as a primary caregiver. A qualifying patient may have up to three primary caregivers.

(15) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory

bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(16) "Qualifying patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

3. Creating Patient Access to Medical Marijuana.

(1) In carrying out the implementation of this section, the department shall have the authority to:

(a) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and for the enforcement of this section so long as patient access is not restricted unreasonably and such rules are reasonably necessary for patient safety or to restrict access to only licensees and qualifying patients.

(c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver to ensure that no medical marijuana grown by a medical marijuana cultivation facility or manufactured by a medical marijuana-infused products manufacturing facility is sold or otherwise transferred except by a medical marijuana dispensary facility. The department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities which demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another entity with a transportation certification. The department shall develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation of marijuana. Any entity licensed or certified pursuant to this section shall be allowed to transport cannabis.

(f) The department may charge a fee not to exceed $5,000 for any certification issued pursuant to this section.

(g) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the department under this section;

[(h) Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section, which scoring shall be limited to an analysis of the following:

(i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers;

(ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income qualifying patients;

(iii) site security;

(iv) experience in a legal cannabis market;

(v) in the case of medical marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience;

(vi) the potential for positive economic impact in the site community;

(vii) in the case of medical marijuana cultivation facilities, capacity or experience with agriculture, horticulture, and health care;

(viii) in the case of medical marijuana dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;

(ix) in the case of medical marijuana-infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and

(x) maintaining competitiveness in the marijuana for medical use marketplace.

In ranking applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise regarding these factors. The department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by qualifying patients.]

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the medical marijuana dispensary facility, product display and examination by the qualifying patient and/or primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed or certified pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, [shall] <u>may</u> forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a

fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530;

(i) Security requirements for any premises licensed or certified pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a medical marijuana dispensary facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. The department shall not require any medical marijuana or medical marijuana-infused products to be tested more than once prior to sale.

(4) The department shall issue rules or emergency rules to provide for the certification of and standards for medical marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as medical marijuana testing facilities. No medical marijuana testing facility shall be owned by an entity under substantially common control, ownership, or management as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

(5) The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation

facilities, medical marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

(7) Within one hundred eighty days of December 6, 2018, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within two hundred ten days of December 6, 2018, the department shall begin accepting applications for such identification cards.

(8) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana cultivation facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five medical marijuana dispensary facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana-infused products manufacturing facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(11) Any applicant for a license authorized by this section may prefile their application fee with the department beginning 30 days after December 6, 2018.

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to [six flowering marijuana plants] <u>fifty square feet of canopy space</u> for the [exclusive use] <u>benefit</u> of that qualifying patient. The card shall

be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of [one hundred] twenty-five dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. In no case shall any qualifying patient cultivate more than fifty square feet of canopy space regardless of the number of primary caregivers assigned to said qualifying patient.

(13) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty-day period, provided that limit is not less than four ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the department.

(14) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty-day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. In no case shall the total amount of medical marijuana attributed to a single qualifying patient in the possession of multiple primary caregivers exceed the limit set by the department. Qualifying patients cultivating marijuana for medical use may possess up to a [ninety-day] one year supply, so long as the supply remains secured on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by [imprisonment of up to one year and] a fine of up to two thousand dollars.

[(15) The department may restrict the aggregate number of licenses granted for medical marijuana cultivation facilities, provided, however, that the number may not be limited to fewer than one license per every one hundred thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department may restrict the aggregate number of licenses granted for marijuana-infused products manufacturing facilities, provided, however, that the number may not be limited to fewer than one license per every seventy thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department may restrict the aggregate number of licenses granted for medical marijuana dispensary facilities, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018. Future changes to the boundaries of or the number of congressional districts shall have no impact.]

(18) The department shall begin accepting license and certification applications for medical marijuana dispensary facilities, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after December 6, 2018. Applications for licenses and certifications under this section shall be approved or denied by the department no later than one hundred fifty days after their submission. If the department fails to carry out its nondiscretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(19) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the department. The department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor

index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the department fails to deny and fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their qualifying patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(20) Primary caregivers under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(21) All marijuana for medical use sold in Missouri shall be cultivated in a licensed medical marijuana cultivation facility located in Missouri.

(22) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a medical marijuana-infused products manufacturing facility.

(23) The denial of a license, license renewal, or identification card by the department shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the department shall be subject to judicial review as provided by law.

(24) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(25) The department shall not have the authority to apply or enforce any rule or regulation that would impose an undue burden on any one or more licensees or certificate holders, any qualifying patients, or act to undermine the purposes of this section.

4. Taxation and Reporting.

(1) A tax is levied upon the retail sale of marijuana for medical use sold at medical marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and paid to the department of revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri veterans' health and care fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund", which shall consist of taxes and fees collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount not to exceed twenty percent of net deposits which is necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies

necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri veterans commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri service officer's program, and other services for veterans approved by the commission, including, but not limited to, health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri veterans commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from, and in addition to, any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

(6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

5. Additional Patient, Physician, Caregiver and Provider Protections.

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the department, and transportation of marijuana from a medical marijuana dispensary facility to the qualifying patient's residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid qualifying patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri state board of registration for the healing arts, or its successor agency, for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider, including individuals licensed under chapter 335 or 337 or their successor statutes, shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any

accreditation or licensing board or commission for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A medical marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by nonemancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation [of up to six flowering marijuana plants per patient] in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

6. Legislation.

Nothing in this section shall limit the general assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section.

7. Additional Provisions.

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or entity with a transportation certification shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a nonviolent crime [for which he or she was not incarcerated and that is more than five years old]; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The department may consult with and rely on the records, advice and recommendations of the attorney general and the department of public safety, or their successor entities, in applying this subdivision.

(3) All medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility licenses, entities with medical marijuana testing facility certifications, and entities with transportation certifications shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) No medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including loss of license.

(5) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana", or a "Marijuana-Infused Product". Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty.

(6) No individual shall serve as the primary caregiver for more than [three] <u>ten</u> qualifying patients.

(7) No qualifying patient shall consume marijuana for medical use in a public place, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(8) No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and, if applicable, loss of their identification card, certificate, or license for up to one year.

(9) All qualifying patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. [Two qualifying] Qualifying patients and care givers, who [both] hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. No shared facility may contain more than five thousand square feet of canopy space without obtaining a medical marijuana cultivation facility license. [No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.]

(10) No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

(11) Unless allowed by the local government, no new medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality.

(12) Unless superseded by federal law or an amendment to this Constitution, a physician shall not certify a qualifying condition for a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic, or in another commonly used format. A qualifying patient must obtain a new physician certification at least annually.

(13) A physician shall not issue a certification for the medical use of marijuana for a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. [Only a parent or guardian may serve as a primary caregiver for a nonemancipated qualifying patient under the age of eighteen.] At least one of the primary caregivers for a nonemancipated qualifying patient under the age of eighteen must be a parent or legal guardian. Only the qualifying patient's [parent or guardian] primary caregiver shall purchase or possess medical marijuana for a nonemancipated qualifying patient under the age of eighteen. A [parent or guardian] primary caregiver shall supervise the administration of medical marijuana to a nonemancipated qualifying patient under the age of eighteen.

(14) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(15) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

8. Severability.

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

[9. Effective Date.

The provisions of this section shall become effective on December 6, 2018.]

Section 2.

1. Purpose

This section is intended to permit the safe and legal use of cannabis by adults over the age of twenty-one and to reasonably regulate the cultivation, processing, manufacturing, and distribution of cannabis. The people of Missouri have a right to enjoy the benefits of their labor free from unreasonable regulation. This section creates a legal, regulated, and taxed cannabis industry so Missouri businesses can participate in the growing market, and the state can reduce the burden on the budget and criminal justice system caused by the prosecution and incarceration of non-violent cannabis possession and distribution.

This section is not intended to supplant the medical marijuana market. The medical marijuana market is a necessary and important part of many patients' treatment plans. Care guided by a health care provider is important when cannabis is used in an intensive and therapeutic manner.

This section is intended to make only those changes to Missouri laws that are necessary to protect consumers and businesses in the cannabis industry from civil and criminal penalties; and to allow for the responsible consumption of cannabis, combat illegal underage consumption of cannabis, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed cannabis cultivators, manufacturers, transporters, hospitality establishments, and retailers. This section is not intended to allow for the unregulated public use of cannabis; the operation of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; the use of cannabis in the workplace; or the use of cannabis by persons under twenty-one years of age.

2. Definitions.

(1) "Adult use" means the production, possession, delivery, distribution, transportation, or ingestion of cannabis or a cannabis-infused product, or drug paraphernalia used to ingest cannabis or a cannabis-infused product, by a person over the age of twenty-one for purposes other than those provided for in Article XIV Section 1.

(2) "Cannabis" means *Cannabis indica, Cannabis sativa, and Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute cannabis, hemp, or marijuana. "Cannabis" includes resin extracted from the plant and cannabis-infused products. "Cannabis" does not include industrial hemp as defined by Federal law or commodities or products manufactured from industrial hemp as defined by Federal law. "Cannabis" does not include parts of the plant that do not contain tetrahydrocannabinol (THC) or the soil or substrate in which the plants were grown.

(3) "Cannabis-infused products" means products that are infused with cannabis or an extract thereof and are intended for ingestion other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(4) "Cannabis cultivation facility" means a facility licensed by the division to acquire, cultivate, process, store, package, transport, and sell cannabis to or from a cannabis retail facility, cannabis testing facility, cannabis manufacturing facility, or another cannabis cultivation facility.

(5) “Cannabis hospitality facility” means a facility certified by the division to permit the consumption of cannabis by consumers or qualifying patients on the premises.

(6) "Cannabis manufacturing facility" means a facility licensed by the division to acquire, process, manufacture, produce, store, package, transport, and sell cannabis and paraphernalia used to ingest cannabis as provided for in this section to or from a cannabis retail facility, cannabis testing facility, cannabis cultivation facility, or another cannabis manufacturing facility.

(7) "Cannabis retail facility" means a facility licensed by the division to acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to a consumer, and acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to or from another cannabis retail facility, a cannabis testing facility, cannabis manufacturing facility, or a cannabis cultivation facility.

(8) "Cannabis testing facility" means a facility certified by the division or the division of health and senior services to acquire, test, certify, and transport cannabis.

(9) “Child-Resistant Packaging” means resealable packaging that is opaque and is designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use.

(10) “Consumer” means a natural person over the age of twenty-one.

(11) “Delivery” means the delivery of cannabis from a cannabis retail facility to a consumer.

(12) “Disqualifying felony” means any dangerous felony as defined by the laws of this state, but shall not include any felony which is based on the possession or distribution of cannabis unless such act included the distribution of cannabis to a person under the age of seventeen and more than two years younger than the person being charged.

(13) “Division” means the division of alcohol and tobacco control within the department of public safety, or its successor division.

(14) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(15) "Flowering plant" means a cannabis plant from the time it shows physical signs of flowering or budding out of the nodes of the stem through harvest.

(16) “Historically Marginalized Population” means African American and Hispanic populations.

(17) “Ingest” means any method of introducing cannabis or its chemical components into the human body including but not limited to:

(a) Ingestion of capsules, teas, oils, and other cannabis-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories; or

(e) Consuming cannabis-infused food products.

(18) “Local Government” means a county, township, city, town, village, or municipality.

(19) “Transportation” means the movement of cannabis between licensed facilities. “Transportation” includes the delivery of cannabis to a cannabis retail facility but does not include delivery of cannabis directly to a consumer.

3. Regulation

In carrying out the implementation of this section, the division shall have the authority to:

(1) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, transportation, delivery, and hospitality of cannabis for adult use in accordance with this section; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(2) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, sale, transportation, and delivery of cannabis for adult use, and for the enforcement of this section, so long as access is not restricted unreasonably and such rules are reasonably necessary for consumer safety or to restrict access to only persons over twenty-one years of age. Such rules may include provisions related to:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the division;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary;

(e) Creation of a range of administrative penalties for use by the division;

(f) Prohibition of misrepresentation and unfair practices;

(g) Regulation of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the cannabis retail facility, product display and examination by a consumer, listings in business directories including online directories and phone books, listings in cannabis-related publications and websites, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of identification cards for entities licensed or certified pursuant to this section, including a fingerprint-based criminal background check for owners, officers, and managers of such entities.

(i) Develop such forms, certificates, licenses, and applications, which may be provided in electronic or digital format, as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(j) Requirements for any entity licensed or certified by the division to create and follow security policies that prevent access to cannabis by any person under the age of twenty-one; prevent entry by any person not authorized by the division or the license holder into areas where cannabis is being cultivated, manufactured, or stored; and provide immediate notice to the entity or their designated agent of any attempt by a person to gain unauthorized or illegal access to cannabis or any area where cannabis is being cultivated, manufactured, or stored;

(k) Regulation of the storage of, warehouses for, and transportation of cannabis for adult use;

(l) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(m) The specification of acceptable forms of identification that a cannabis retail facility may accept when verifying a sale;

(n) Labeling and packaging standards that require child-resistant packaging provided that the rules may not unreasonably restrict branding and marketing information that is not misleading and is

designed to make a product recognizable and distinguish it from similar products sold by competitors;

(o) Records to be kept by licensees and the required availability of the records;

(p) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(q) The reporting and transmittal of tax payments;

(r) Authorization for the division of revenue to have access to licensing information to ensure tax payment and the effective administration of this section;

(s) Ensure an adequate supply of cannabis for medical use, including but not limited to regulations that require facilities to maintain an adequate supply of cannabis for medical use based on sales history and requiring contracts to supply cannabis for medical use to take precedence over contracts to supply cannabis for adult use; and

(t) Such other matters as are necessary for the fair, impartial, and comprehensive administration of this section.

(3) Require a seed-to-sale tracking system that tracks cannabis from either the seed or immature plant stage until the cannabis is sold to a consumer to ensure that no cannabis grown by a cannabis cultivation facility or manufactured by a cannabis manufacturing facility is sold or otherwise transferred to a consumer except by a cannabis retail facility or certified delivery entity. The division shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees. The division may coordinate with the department of health and senior services to utilize the same seed to sale tracking system as is used to track marijuana for medical use;

(4) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the division under this section.

(5) If the division fails to promulgate rules and issue licenses specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(6) The division shall not have the authority to apply or enforce any rule or regulation that would require additional fees for applicants, license holders, or certificate holders; impose an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose an undue burden if it imposes restrictions that are greater than those imposed on the manufacture and sale of alcoholic beverages.

4. Licensing

(1) Cannabis transportation and delivery certifications may be issued as follows. The division shall certify entities which demonstrate compliance with its transportation and delivery standards to transport or deliver cannabis. The division shall issue standards for the secure transportation and delivery of cannabis. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation and delivery of cannabis but shall not impose standards that make the transportation or delivery of cannabis impracticable. There shall be no additional fee for a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility to be certified for transportation or delivery.

(2) Cannabis testing certification and standards may be issued as follows. The division shall certify cannabis testing facilities which demonstrate compliance with its rules for independent testing and certification of cannabis. The division shall issue rules or emergency rules establishing standards for a cannabis independent testing and certification program for cannabis licensees and requiring licensees to test cannabis using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. However, the rules shall not

impose any requirements that make it impracticable for an otherwise qualified facility to obtain certification. The division shall not require any cannabis to be tested more than once prior to sale. No cannabis testing facility shall be owned by an entity under substantially common control, ownership, or management as a cannabis cultivation, manufacturing, or retail facility licensed under this section or a medical marijuana cultivation, manufacturing, or dispensary facility licensed under Article XIV section 1. Testing facilities licensed under Article XIV section 1 shall be automatically certified to test cannabis under the rules issued by the division for the testing of cannabis for adult use.

(3) Cannabis hospitality facility certification may be issued as follows. The division shall certify entities which demonstrate compliance with its hospitality standards to allow for the consumption of cannabis on its premises. The division shall issue standards for the safe consumption of cannabis at locations other than a private residence. The standards shall allow for the facility to sell or provide food and beverages, including alcoholic beverages. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the safe consumption of cannabis at a location other than a private residence, but shall not impose standards that make the operation of a cannabis hospitality facility impracticable.

(4) Cannabis cultivation facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to grow cannabis as a cannabis cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single location. Each facility may be limited by the division to not less than thirty thousand square feet of flowering plant canopy space. Facilities may choose to grow indoors using artificial light, outdoors, in a greenhouse utilizing a combination of artificial and natural light, or any combination of methods. The license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana cultivation facility may also apply for a cannabis cultivation facility license at the same location.

(5) Cannabis manufacturing facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana manufacturing facility may also apply for a cannabis manufacturing facility license at the same location.

(6) Cannabis retail facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis retail facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana dispensary facility may also apply for a cannabis retail facility license at the same location.

(7) The division may charge an application or renewal fee for each license type not to exceed two thousand five hundred dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency. Applications re-submitted after a denial shall not be charged an additional application fee, but may be charged a fee of not more than five hundred dollars for a re-submitted application.

(8) The division may charge a certification and renewal fee for each certification type not to exceed one thousand dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency.

(9) An entity may apply for a reduced application or renewal fee. The division shall develop rules to determine the eligibility of an applicant for a reduced fee. The rules shall include consideration for entities:

(a) locating in an area that has an unemployment rate above the national average;

(b) locating in an area that has been designated as an Economic Disadvantaged Zone by the US Division of Commerce;

(c) owned and operated by individuals in protected classes;

(d) owned and operated by veterans;

(e) owned or operated by an entity that was previously denied a medical marijuana facility license based on application score; or

(f) any other factors that would promote the inclusion of small and locally owned businesses and individuals in historically marginalized groups.

(10) All owners, officers, managers, and employees of entities licensed or certified pursuant to this section, shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, may forward the fingerprints to the Federal Bureau of Investigation(FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530. Notwithstanding the provisions of section 610.120, all records related to any criminal history information shall be available to the division. The criminal background check may be requested by the applicant or employer and performed up to ninety days prior to the submission of an application for license, certification, or employment.

(11) The division shall maintain the confidentiality of information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any customer information, or any other records that are exempt from public inspection pursuant to state or federal law. Such information may be used only for a purpose authorized by this section.

(12) The division shall begin accepting license and certification applications not later than August 1, 2023. In order to facilitate the initial costs of regulation, the division may accept application fees beginning January 15, 2023 and shall apply such fees to applications submitted after August 1, 2023. Applications for licenses and certifications under this section shall be approved or denied by the division no later than ninety days after their submission. If the division fails to carry out its nondiscretionary duty to approve or deny an application within ninety days, the application or certification is deemed granted for one year or until revoked for good cause.

(13) There shall be no limit on the number of facility licenses or certifications issued by the division.

(14) Applications for any facility license shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and site security plan;

(ii) A seed to sale tracking system;

(iii) A method for verifying the age or medical marijuana status of any consumer;

(iv) Employment policies that are non-discriminatory and require fingerprint background checks prior to beginning employment at the facility;

(v) A plan to dispose of excess product in the event of the facility closing which may be satisfied by a plan to sell or donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where un-packaged cannabis flower or cannabis-infused products are being prepared or packaged;

(vii) Labeling and packaging policies that are not misleading, are not likely to be confused with non-cannabis containing products, and are designed to make a product recognizable and distinguish it from similar products sold by competitors;

(viii) Record retention policy that allows for the inspection of records of purchases and sales for at least the preceding twenty-four months; and

(ix) Certification that any contracts to supply cannabis for medical use will take precedence over contracts to supply cannabis for adult use.

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(d) The applicant has verified its anticipated location is properly zoned and not within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church; and

(e) The applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(15) Applications for any transportation, delivery, testing, or hospitality certification shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and security plan suitable to the type of certification;

(ii) For testing certifications, an inventory tracking system;

(iii) For hospitality and delivery certifications, a method for verifying the age or medical marijuana patient status of any consumer;

(iv) Employment policies that are non-discriminatory;

(v) A plan to dispose of unused or undelivered product which may be satisfied by a plan to donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where cannabis flower or cannabis-infused products are being tested or consumed;

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(e) For testing facilities, the applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(16) A single entity may hold multiple licenses or certifications and may operate under such licenses at a single location. However, a cannabis hospitality facility certification shall not be issued for a location in which a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility is in operation.

(17) Facilities licensed under Article XIV Section 1 may also apply for and be granted licenses and certifications under this section.

5. Taxation and Funding

(1) Application and renewal fees collected by the division shall be used for the administration of this section. If such fees are insufficient to provide for the administration of this section, the division may apply to the Missouri Economic Recovery and Growth Fund for a cash operating transfer which shall be repaid as provided by law.

(2) A tax is hereby levied upon the retail sale of cannabis for adult use sold at cannabis retail facilities within the state.

(a) The tax shall be at a rate of seven and one-half percent of the retail price.

(b) The tax shall be collected by each licensed cannabis retail facility and paid to the department of revenue. After retaining no more than two percent of the amount collected for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri Economic Recovery and Growth Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(c) Such tax shall not be levied on wholesale sales of cannabis for adult use or any cannabis which is transferred from a cannabis retail facility to a cannabis cultivation or manufacturing facility.

(3) There is hereby created in the state treasury the "Missouri Economic Recovery and Growth Fund", which shall consist of taxes collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the division in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) One-third of all monies collected shall be distributed to not-for-profit organizations, state agencies, and political subdivisions to provide free legal assistance to individuals seeking to expunge a criminal record, or to increase staffing levels to process expungement requests in a timely fashion; and

(b) Two-thirds of all monies collected shall be transferred to the general revenue fund.

(4) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing funding.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of cannabis for adult use.

(6) The fees and taxes provided for in this Article XIV, Section 2 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) A local government may impose a retail sales taxes on the retail sale of cannabis for adult use. Such taxes shall be imposed in the same way as provided for other retail sales taxes in law. Local taxes imposed on the retail sale of cannabis for adult use shall not exceed those imposed by the same jurisdiction on the retail sale of alcoholic beverages or other retail sales whichever is higher.

(8) Any consumer who presents a duly issued medical marijuana patient identification card or a medical marijuana primary caregiver identification card shall not pay the sales tax provided for in this section, but shall pay the sales tax required for medical marijuana sales in Article XIV Section 1.

6. Public Safety

(1) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of cannabis.

(2) A criminal conviction for an intoxication related offense shall require a showing that the person was actually impaired at the time the offense occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show actual impairment.

(3) An allegation of negligence while under the influence of cannabis shall require a showing that the person was actually under the influence of cannabis at the time the negligence occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show the person was actually under the influence.

(3) A consumer may cultivate up to twenty-five square feet of flowering canopy of cannabis for adult use in any space owned or leased by said consumer. The space in which cannabis for adult use is being cultivated must be secured against entry by unauthorized individuals including individuals under twenty-one years of age. Such cannabis shall not be provided for sale to any individual but may be sold or donated through the compassionate care program established in this section.

(4) A consumer may possess the following amounts of cannabis at any one time:

(a) up to eight ounces of dried unprocessed flower;

(b) up to twenty-eight grams of concentrated resin or extract; and

(c) up to four thousand milligrams of tetrahydrocannabinol in cannabis-infused products.

(5) No individual who is under twenty-one years of age may possess cannabis in any amount unless such individual is in possession of a medical marijuana patient or primary caregiver license issued pursuant to Article XIV Section 1.

(6) The legislature may pass criminal statute related to the possession, delivery, or distribution of cannabis in excess of the limits provided for in this section without the appropriate license. However, in no case shall the possession, delivery, or distribution of cannabis in an amount less than two times the limits provided for in this section be deemed a felony unless such delivery or distribution was to a person under twenty-one years of age. Any existing laws which criminalize possession, delivery, or distribution of cannabis in amounts less than the limits provided for in this section are hereby declared null and void unless such delivery or distribution was to a person under twenty-one years of age.

(7) Any individual convicted for a crime related to the possession, delivery, or distribution of cannabis, other than a dangerous felony or the delivery or distribution of cannabis to a person under seventeen years of age and more than two years younger than the person being charged, may file for release from custody and expungement of their criminal record in the jurisdiction in which the conviction occurred. Such release from custody shall be expedited and shall be granted unless the person seeking release is incarcerated for additional crimes. Such expungement shall be granted as a matter of right and shall not affect an individual's ability to seek expungement of other offenses under the laws of this state. The supreme court shall make available to the public free of charge forms for a release from custody or the expungement of such offenses. The filing fee for a motion or new cause of action under this subsection shall be no more than the filing fee for actions brought in the small claims court of the same jurisdiction.

(8) The presence or the smell of cannabis shall not be sufficient probable cause for a law enforcement officer to detain or search a person for reasons other than a suspected intoxication offense, or to impound or search the vehicle, residence, or other property of a consumer. Any search or arrest warrant issued for violations of this section or other cannabis laws not in conflict with this section shall require evidence of the violation and shall not be issued on the basis of the presence of cannabis alone. No search or arrest warrant shall be issued based on violations of this section or other cannabis laws not in conflict with this section that would allow law enforcement officers to enter a premises without first knocking and announcing their presence and purpose.

(9) The division shall develop in coordination with the Missouri department of health and senior services a compassionate care program through which cannabis may be tested and sold or donated to a cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility by any

consumer, cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility. Any facility that receives excess cannabis through such program must make any cannabis received through the program available free of charge to qualifying patients and primary caregivers who meet financial need and health necessity criteria. Each facility may develop its own criteria, but in no case shall cannabis be provided free of charge to any individual who is not in possession of a medical marijuana patient or primary caregiver identification card.

7. Local Control

(1) Unless allowed by the local government, no new cannabis cultivation facility, cannabis testing facility, cannabis retail facility, or cannabis manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. A local government may allow for a location closer than one thousand feet but may not impose any restriction greater than one thousand feet.

(2) No local government shall prohibit cannabis cultivation facilities, cannabis testing facilities, cannabis manufacturing facilities, or cannabis retail facilities, or entities with a transportation or hospitality certification from operating within the locality either expressly or through the enactment of ordinances, including but not limited to zoning ordinances, or regulations that make their operation unduly burdensome in the locality. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality so long as such ordinances or regulations are not more restrictive than those imposed on the manufacture or sale of alcoholic beverages.

(3) Local governments shall develop and adopt ordinances and policies related to cannabis facilities and certificate holders no later than June 30, 2023. The local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose excessive fees or an undue burden if it imposes fees higher than or restrictions greater than those imposed on the manufacture and sale of alcoholic beverages.

(4) If the local government fails to adopt ordinances and policies specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the location and licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(3) Local governments may require cannabis cultivation facilities, cannabis manufacturing facilities, cannabis retail facilities, cannabis transportation or delivery certificate holders, cannabis hospitality certificate holders to be licensed businesses under the local ordinances. However no local government shall require an additional fee to be paid or additional special license to be acquired by a cannabis license or certificate holder that is not required for other businesses in the jurisdiction.

(4) A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality so long as such penalties are not greater than those imposed on the manufacture or sale of alcoholic beverages.

8. Other Provisions

(1) All cannabis for adult use sold in Missouri shall be cultivated in a licensed cultivation facility located in Missouri or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis.

(2) All cannabis-infused products for adult use sold in the state of Missouri shall be manufactured in a licensed manufacturing facility or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis-infused products.

(3) A cannabis testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the adult use of cannabis consistent with this section and otherwise meeting legal standards of professional conduct.

(4) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for being employed by, contracting with, or providing legal assistance to facilities licensed or certified under this section, entities applying for licensing or certification under this section, or any individual seeking legal advice related to activity that is no longer subject to civil or criminal penalties under state law pursuant to this section.

(5) Except as provided for by this section, actions and conduct by consumers, facilities licensed or certified under this section, or the employees, contractors, vendors, or agents of facilities licensed or certified under this section, as permitted by this section and in compliance with division regulations and other provisions of law, shall not be subject to criminal or civil liability or sanctions under Missouri law including but not limited to disciplinary action against a professional license, revocation of probation or parole, denial of public assistance programs or public services, or denial of a license to operate a vehicle, watercraft, or other equipment.

(6) It is the public policy of the state of Missouri that contracts related to cannabis for adult use that are entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

(7) No mandatory reporter under the laws of this state shall be required to report the adult use of cannabis by a parent or prospective parent unless such use is in violation of this section or the parent is actively endangering the health and safety of a child. A prospective foster or adoptive parent shall not be discriminated against for their use of cannabis for non-medical purposes unless such use is in violation of this section or other provisions of law not in conflict with this section.

(8) The denial of a license, license renewal, or identification card by the division shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the division shall be subject to judicial review as provided by law.

(9) No elected official shall interfere directly or indirectly with the division's obligations and activities under this section.

9. Severability

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-063)

Subject

Initiative petition from Eric McSwain regarding a proposed constitutional amendment to Article XIV of the Constitution of Missouri. (Received September 1, 2021)

Date

September 21, 2021

Description

This proposal would amend Article XIV of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University, Missouri Veterans**

Commission, Missouri Office of Prosecution Services, the **Kansas City Board of Police Commissioners,** and the **Metropolitan Police Department - City of St. Louis.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated the proposed legislation could create new small business opportunities in addition to costs associated with a new business in order to be in compliance with the legislation.

The reduction in state revenue will be $2,910,977 in state fiscal year (SFY) 2023 and $3,362,539 in SFY 2024.

The initiative petition (IP) makes changes to Section 1 of Article XIV. Some changes would require revising existing rules. Their department anticipates being able to absorb these costs. However, until the fiscal year (FY)2023 budget is final, their department cannot identify specific funding sources.

Section 1.3(12) changes the current patient cultivation application fee projections. The proposed language reduces the annual fee for a patient cultivation card from $100 to $25. The new projected revenues related to patient cultivation applications are $926,737 ($3,837,714 less $2,910,977) for FY2023 and $1,070,496 ($4,433,035 less $3,362,539) for FY2024.

Section 1.3(15) –(17) are deleted, removing DHSS' authority to set limits on the number of licenses granted for medical marijuana facilities and removing the mandatory minimum numbers of licenses DHSS must issue. Preliminary research of other states (CO, OR, and MI) with medical marijuana programs that continued operation after an adult-use program was implemented indicates some reduction in use of the medical marijuana program should

be expected. While the extent of reduction to be expected is unclear, it appears reasonable to assume patient counts will level off rather than continuing to increase. With patient counts (demand) stabilizing and an adult-use program in development (per Section 2 of this IP), there should be no need for or interest in increasing the number of facility licenses (supply). In fact, it may be that the number of medical marijuana licenses could go down if patient demand is not high enough to support the amount of supply current medical marijuana facility numbers can produce. However, their department has no reliable data at this time, other than the projected stabilization of patient demand, on which to conclude that medical marijuana facility numbers would increase or decrease. Therefore, they project that all revenues from medical marijuana fees and taxes would hold steady.

Section 1.4(2)(a) reduces the portion of the Missouri Veterans' Health and Care Fund available to DHSS for administering the medical marijuana program from *"an amount necessary for the department to carry out this section*" to "*an amount not to exceed twenty percent of net deposits which is necessary for the department to carry out this section."*

Total revenues for the Fund in FY2023 are estimated to be $18,991,834. Twenty percent of total revenues is estimated at $3,798,367. The medical marijuana program's operating costs are $13,000,000 million. This would create a budget shortfall of approximately $9,201,633 for FY2023, which would require general revenue (GR) pickup to continue the operations of the program.

Total revenues for the Fund in FY2024 is estimated to be $18,991,834. Twenty percent of that is $3,798,367. The medical marijuana program's operating costs are $13,000,000. This would create a budget shortfall of approximately $9,201,633 for FY2024 and would require GR pickup to continue the operations of the program.

The IP proposes a new Section 2, which establishes adult-use of marijuana and gives regulatory authority over adult-use to the Department of Public Safety, Division of Alcohol and Tobacco Control. There is one provision in this section that establishes a new responsibility for DHSS. Section 2.6(9) requires that DHSS coordinate with Division of Alcohol and Tobacco Control (DATC) to establish a program through which "excess" cannabis from facilities and adult-use consumers may be sold or donated to facilities that wish to make that cannabis available free of charge to certain qualifying patients and primary caregivers. Their department assumes a need to establish regulations for this program but also assumes there would be minimal need for their department to participate in administration or regulation of the program, as the only DHSS-licensed facilities that would be authorized to participate in the program are 10 testing facilities. Their department anticipates being able to absorb these costs. However, until the FY2023 budget is final, their department cannot identify specific funding sources.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

However, the impact on the demand for substance use disorder treatment is unknown. Their department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated the total estimated net effect on all state funds for fiscal year 2024 will be $227,986, fiscal year 2025 will be $676,775, fiscal year 2028 will be $1,071,308.

The estimate of the number of offenders who will be impacted by the proposed legalization of marijuana can be calculated from the sentencing records maintained by their department, but with an important qualification. Most offenders sentenced for drug offenses in Missouri are sentenced for the production, sale, distribution or possession of a controlled substance, but the drug type is not always part of the sentence information that their department receives. In some cases the drug type is known and is included in the offender management database, but the proportion of cases in which the drug related to the offense is known is a minority of the cases. Given that the drug associated with the offense is unknown by their department in the majority of cases, the estimation of the total impact that follows will use the proportions of cases in which the associated drug is known to determine the number of cases in which the associated drug is unknown that are likely related to marijuana. Therefore, they assume 3% of all prison admissions related to drug sentences are related to marijuana (see table 1).

Table 1. FY 2017 through FY 2020 admissions to prison on only drug-related sentences in which the drug associated with the offense is known. (Drug offenses and drug types are identified in the data system through the use of the NCIC categories, modifiers associated with a sentence, and the description of the offense.)

Marijuana	70	3.3%
Other Drug	2,072	96.7%
Total	2,142	100.0%

Of the 922 offenders with new commitments to prison in fiscal year (FY) 2020 who were admitted only on drug sentences, 575 were cases in which an offender's youngest age associated with any of those drug offenses was 21 years of age or older. The average length of those sentences was 5.6 years. Based on their assumption that 3% of those sentences are related to marijuana, they estimate 17 admissions for sentences of people 21 years of age or older for offenses related only to marijuana.

In FY 2020, there were 1,263 offenders released from prison who had been incarcerated for new commitments to prison only on drug sentences. Their average length of time served to first release was 1.1 years, which is what they assume for all future new commitments in estimating their impact.

Based on their analysis of new probation cases related to drug sentences received by their department in FY 2020, approximately 7% of the cases in which the associated drug is known are related to marijuana (see table 2). Therefore, they assume 7% of all new probation cases are based on drug sentences related to marijuana.

Table 2. FY 2020 probation cases related only to drug sentences in which the drug associated with the offense is known. (Drug offenses and drug types are identified in the data system through the use of the NCIC categories, modifiers associated with a sentence, and the description of the offense.)

Marijuana	209	7.0%
Other Drug	2,766	93.0%
Total	2,975	100.0%

Of the 5,138 offenders with new probation cases in FY 2020 whose cases were only on drug sentences, 2,274 were cases in which an offender's youngest age associated with any of those drug offenses was 21 years of age or older. Based on their assumption that 7% of those sentences are related to marijuana, they estimate 159 new probations for sentences of people 21 years of age or older for offenses related only to marijuana. The average length of those sentences was 5.4 years. Given the possibility of earned compliance credit, they apply a 3 year sentence in their estimation of impact.

The estimated cumulative impact of this proposal on their department operations is 44 fewer people in prison and 528 fewer people under supervision in the field by FY 2029.

Change in prison admissions and probation openings with legislation

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
New Admissions										
Current Law	17	17	17	17	17	17	17	17	17	17
After Legislation	0	0	0	0	0	0	0	0	0	0
Probation										
Current Law	159	159	159	159	159	159	159	159	159	159
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	-17	-17	-17	-17	-17	-17	-17	-17	-17	-17
Probations	-159	-159	-159	-159	-159	-159	-159	-159	-159	-159
Cumulative Populations										
Prison	-17	-34	-44	-44	-44	-44	-44	-44	-44	-44
Parole			-7	-24	-41	-51	-51	-51	-51	-51
Probation	-159	-318	-477	-477	-477	-477	-477	-477	-477	-477
Impact										
Prison Population	-17	-34	-44	-44	-44	-44	-44	-44	-44	-44
Field Population	-159	-318	-484	-501	-518	-528	-528	-528	-528	-528
Population Change	**-176**	**-352**	**-528**	**-545**	**-562**	**-572**	**-572**	**-572**	**-572**	**-572**

* If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (DOC) has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole (P&P) is staffed across the entire state

In December 2019, their department reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be their department average district caseload across the state which is 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one full time employee (FTE) staff person. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, their department will use the average caseload figure for that specific type of offender to calculate cost increases/decreases. For instances where the proposed legislation affects a less specific caseload, they project the impact based on prior year(s) actual data for their department's 48 probation and parole districts.

Their department cost of incarceration in $21.251 per day or an annual cost of $7,756 per offender. Their department cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

They also provided the following information.

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: **IP 22-063**

BILL NO: **Article XIV**

Instructions

SUMMARY OF FISCAL IMPACT

Type of Fiscal Note Response: ORIGINAL

Agency:	DOC - Corrections	Date:	9/9/2021
Division:		Telephone:	526-7844
Preparer:	Trevor Foley	E-Mail Address:	trevor.foley@doc.mo.gov
Preparer's Signature:		No Impact on Agency:	
Approval:	Matt Sturm	No Local Fiscal Impact:	
Approval Signature:		Oversight Analyst:	

Note: if both of the "no impact" lines are checked, you only need to complete the "Summary of Fiscal Impact" and "Overview-Questions" worksheets.
Create and complete separate worksheets for each state fund affected.

ESTIMATED NET EFFECT ON STATE FUNDS

Fund Affected	FY 2024	FY 2025	FY 2028
General Revenue	$277,986	$676,775	$1,071,308
Total Estimated Net Effect on All State Funds	**$277,986**	**$676,775**	**$1,071,308**

ESTIMATED NET EFFECT ON FEDERAL FUNDS

Federal Funds	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS

Total Estimated Net Effect on All Local Funds	**$0**	**$0**	**$0**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-063

Fiscal Note Worksheet

BILL NO: Article XIV

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	# to/from Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)		Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 1 (10 months)	(17)	($7,756)	$109,877		(3)	$168,109	$277,986	(159)
Year 2 (includes 2% inflation)	(34)	($7,756)	$268,978		(6)	$407,797	$676,775	(318)
Year 3 (includes 2% inflation)	(44)	($7,756)	$355,051		(9)	$618,299	$973,350	(484)
Year 4 (includes 2% inflation)	(44)	($7,756)	$362,152		(9)	$694,413	$1,056,565	(501)
Year 5 (includes 2% inflation)	(44)	($7,756)	$369,395		(10)	$701,913	$1,071,308	(518)
Year 6 (includes 2% inflation)	(44)	($7,756)	$376,783		(10)	$709,504	$1,086,287	(528)
Year 7 (includes 2% inflation)	(44)	($7,756)	$384,319		(10)	$717,197	$1,101,516	(528)
Year 8 (includes 2% inflation)	(44)	($7,756)	$392,005		(10)	$724,967	$1,116,972	(528)

	# to/from Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)		Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 9 (includes 2% inflation)	(44)	($7,756)	$399,845		(10)	$732,844	$1,132,689	(528)
Year 10 (includes 2% inflation)	(44)	($7,756)	$407,842		(10)	$740,798	$1,148,640	(528)

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-063
BILL: Article XIV
FUND: General Revenue

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FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033
P&P Officer II	1	$38,753	$32,294	$39,140	$39,532	$39,927	$40,326	$40,729	$41,137	$41,548	$41,964	$42,383
Total FTE			**(3)**	**(6)**	**(9)**	**(10)**	**(10)**	**(10)**	**(10)**	**(10)**	**(10)**	**(10)**
Total Salary for 1 Employee			**$32,294**	**$39,140**	**$39,532**	**$39,927**	**$40,326**	**$40,729**	**$41,137**	**$41,548**	**$41,964**	**$42,383**
Total Salaries Per Year for All Employees			**($96,882)**	**($234,840)**	**($355,788)**	**($399,270)**	**($403,260)**	**($407,290)**	**($411,370)**	**($415,480)**	**($419,640)**	**($423,830)**
Fringe Benefits for 1 Employee			**$20,849**	**$25,269**	**$25,522**	**$25,777**	**$26,035**	**$26,295**	**$26,558**	**$26,824**	**$27,092**	**$27,363**
Fringe Benefits Per Year for All Employees			**($62,548)**	**($151,615)**	**($229,698)**	**($257,772)**	**($260,348)**	**($262,951)**	**($265,583)**	**($268,237)**	**($270,922)**	**($273,629)**
TOTAL SALARIES + FRINGE ALL EMPLOYEES			**($159,430)**	**($386,455)**	**($585,486)**	**($657,042)**	**($663,608)**	**($670,241)**	**($676,953)**	**($683,717)**	**($690,562)**	**($697,459)**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-063
BILL: Article XIV
FUND: General Revenue

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FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	Units	Unit Cost	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033
Computer Equipment	1	$2,874	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Office Equipment	1	$4,632	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Other Equipment	1	$520	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL EQUIPMENT FOR 1 EMPLOYEE			$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL EQUIP/YEAR FOR ALL EMPLOYEE			$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Expenses	**Units**	**Unit Cost**										
Travel, In-State	1	$425	$354	$436	$447	$458	$470	$481	$493	$506	$518	$531
Travel, Out-of-State	1	$25	$21	$26	$27	$27	$28	$29	$29	$30	$31	$32

Supplies	1	$815	$679	$835	$856	$877	$899	$922	$945	$968	$993	$1,017
Professional Development	1	$450	$375	$461	$473	$484	$496	$509	$522	$535	$548	$562
Communication Svcs & Supp	1	$650	$542	$666	$683	$700	$717	$735	$754	$772	$792	$811
Professional Services	1	$494	$412	$506	$519	$532	$545	$559	$572	$587	$601	$617
Housekeeping & Janitor Svcs	1	$232	$193	$237	$243	$249	$255	$262	$268	$275	$282	$289
M&R Services	1	$350	$292	$359	$368	$377	$387	$396	$406	$416	$427	$437
Equipment Rentals & Leases	1	$30	$25	$31	$32	$33	$33	$34	$35	$36	$37	$38
TOTAL EXPENSE FOR 1 EMPLOYEE			$2,893	$3,557	$3,646	$3,737	$3,830	$3,926	$4,024	$4,125	$4,228	$4,334
TOTAL EXPENSE FOR ALL EMPLOYEES			($8,679)	($21,342)	($32,813)	($37,371)	($38,305)	($39,263)	($40,244)	($41,250)	($42,282)	($43,339)
TOTAL EQUIP AND EXP FOR 1 EMPLOYEI			$2,893	$3,557	$3,646	$3,737	$3,830	$3,926	$4,024	$4,125	$4,228	$4,334
TOTAL E&E FOR ALL EMPLOYEES			**($8,679)**	**($21,342)**	**($32,813)**	**($37,371)**	**($38,305)**	**($39,263)**	**($40,244)**	**($41,250)**	**($42,282)**	**($43,339)**
Local Assistance			$0	$0	$0							
Other Costs ( )			$0	$0	$0							

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: **IP 22-063**
BILL: **Article XIV**
FUND: **General Revenue**

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SUMMARY OF FUND COSTS

I. Fund Costs by Category	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**FY 2030**	**FY 2031**	**FY 2032**	**FY 2033**
Salaries	($96,882)	($234,840)	($355,788)	($399,270)	($403,260)	($407,290)	($411,370)	($415,480)	($419,640)	($423,830)
Fringe Benefits	($62,548)	($151,615)	($229,698)	($257,772)	($260,348)	($262,951)	($265,583)	($268,237)	($270,922)	($273,629)
Equipment and Expense	($8,679)	($21,342)	($32,813)	($37,371)	($38,305)	($39,263)	($40,244)	($41,250)	($42,282)	($43,339)
Local Assistance	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Other Fund Costs	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**($168,109)**	**($407,797)**	**($618,299)**	**($694,413)**	**($701,913)**	**($709,504)**	**($717,197)**	**($724,967)**	**($732,844)**	**($740,798)**
II. Fund Revenue Sources										
Taxes	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Fines	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Administrative Sanctions	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Other Sources ( )	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL FUND REVENUE - ALL SOURCES	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**
III. Cost Avoidance (Savings)										
Salaries	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Fringe Benefits	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Equipment and Expense	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Other Sources ( )	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$168,109**	**$407,797**	**$618,299**	**$694,413**	**$701,913**	**$709,504**	**$717,197**	**$724,967**	**$732,844**	**$740,798**

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article XIV, version 1. However, there is a concern over whether the protections provided to employers in section 1.7 apply to the recreational use of marijuana section.

Officials from the **Department of Revenue** indicated the total estimated net effect on all state funds for fiscal year 2022 will be $0, fiscal year 2023 will be $0, fiscal year 2024 will be $12,173,807 to $18,815,775.

Revenue Impact

Section 1 - Medical Marijuana

This proposal revises the current medical marijuana law. Section 4 regarding taxation adds language stating the department can retain an amount from the medical marijuana tax collected not to exceed 20%. Their department currently withholds only 1% of the money collected to reimburse their expenses. For the period of November 2020 to July 2021 they retained $26,325. They assume this provision will not have any additional impact on their department.

The existing medical marijuana laws are modified to change the definition of marijuana and to expand the number of primary caregivers a person may have. Additionally it changes the requirements that allow medical marijuana patients to cultivate their own marijuana plants. Their department assumes these changes would not fiscally impact their department. Their department is unable to determine if these changes will have a fiscal impact on the amount of tax collected under the medical marijuana or recreational marijuana laws.

Section 2 –Recreational Cannabis

This is an initiative petition that would go to the vote of the people at the November 2022 general election. If this is not adopted by the people, this would not have a fiscal impact. Should this be adopted at the November 2022 election, by the time certification of the election occurs, it is assumed this constitutional amendment would have a January 1, 2023 effective date. Per the requirements of this proposal, citizens would not be able to file for a license to be certified to sell cannabis until August 2023. Based on the time for certification and the growing time for the cannabis product, it is estimated this proposal would not have a fiscal impact until January 1, 2024, resulting in only a six month impact in fiscal year (FY) 2024. Any fiscal impact stated in this proposal assumes the January 1, 2024 fiscal start date.

This proposal states that is not intended to repeal or replace the medical marijuana market. However this places a lower tax rate on recreational cannabis than on medical marijuana. Currently medical marijuana is taxed at 8.225%. This creates a recreational marijuana tax rate of just 7.5%. The medical marijuana sales tax is distributed as:

Missouri Veterans' Health and Care Fund (4%)
General Revenue (3%)
School Districts Trust Fund (1%)

Conservation Commission 0.125%)
Parks, Soil & Water (0.1%)

Per this proposal the recreational marijuana sales tax would all be deposited into the Missouri Economic Recovery and Growth Fund (MERG). Their department is unable to determine how many taxpayers would buy the recreational marijuana rather that the medical marijuana. If people choose to pay the lower sales tax (recreational marijuana) then the Missouri Veterans' Health and Care Fund, General Revenue, School District Trust Fund, Conservation Commission and Parks, Soil & Water Funds would lose money while the MERG Fund would see increased funding. This impact is estimated to be unknown but significant.

Subsection 3 Regulation
These provisions establish the guidelines for the legalization of cannabis (selling and using) by adults over the age of 21. The provisions include who can sell the product and how much a consumer can possess.

Subsection 3.(2)(q) requires that the Division of Alcohol and Tobacco Control to establish rules regarding the transmittal of tax payments. Their department would work with the Division in order to establish the rules necessary for the collection of the payments as this proposal requires they collect the tax but does not establish a filing frequency for the tax payments or require remittance. They assume this would be done with existing resources.

Subsection 5 – Taxation and Funding
This proposal imposes a tax on cannabis upon the retail sale at a cannabis retail facility. The tax shall be at a rate of 7.5 percent starting January 1, 2023, the effective date of this proposal. (It should be noted this would not fiscally impact the state until January 1, 2024 as previously described above).

It should be noted that this proposal requires the collection and payment of this cannabis tax but does not specify when it is to be paid. Additionally, their department is not given rulemaking authority to set the collection dates for this tax that was given to the Division of Alcohol and Tobacco Control (as mentioned above). For the calculation of the fiscal note, their department assumes this tax will be collected and remitted at the same time regular sales and use tax is collected. Should it be determined a different remittance time is allowed, the projected fiscal impact could be different than calculated.

All tax revenues per this proposal are to be deposited into the Missouri Economic Recovery and Growth Fund (MERG).

Based on a study completed by Gallup, 12 percent of the nation's adults smoke cannabis regularly. Based on information published on suburbanstats.org, there are approximately 4,181,284 individuals at age 21 or above in the State of Missouri, 12% of the total number of adults aged 21 or older would equal 501,754 adults.

A report published by Headset Inc, a new market insights from Seattle-based cannabis intelligence company, believes that the average cannabis consumer spends roughly $647 on cannabis and related products per year. Based on information provided in the report published by Headset Inc, the largest pool of individuals surveyed spent $1,000 or above each year on cannabis and cannabis products. These amount of $647 and $1000 will allow them to estimate a fiscal impact range.

Their department notes that sales tax is added to the purchase prices. Therefore at the low rate of $647 they assume total taxable sales of $324,634,838 ($647 * 501,754). Therefore at the low end they estimate the 7.5% collected sales tax would be $24,347,613 ($324,634,838 * 7.5%).

At the upper rate of $1,000 they assume a total taxable sales of $501,754,000 ($1,000 * 501,754). Therefore at the upper end they estimate the 7.5% collected sales tax would be $37,631,550 ($501,754,000 * 7.5%).

Fiscal Year 2024 (6 months)		**Fiscal Year 2025**	
Increase to MERG Fund		**Increase to MERG Fund**	
Low	**High**	**Low**	**High**
Could be less than $12,173,807	Could be less than $18,815,775	$24,347,613	$37,631,550

This proposal also allows local political subdivisions to adopt a cannabis sales tax. Their department assumes a current local sales and use tax rate of 4.03%. At this current rate it is estimated this would generate $13,082,784 to $20,220,686 for local governments. Their department is unable to determine how many would adopt the sales tax. Therefore, this may result in a lesser amount than projected.

This proposal allows their department to retain up to 2% of the tax collected to pay for the administration and collection of the tax. This would allow their department to retain $486,952 to $752,631 based on amount collected. They are unsure if this would cover all of their department's expenses. Should it not be enough, they will request additional funding through the appropriation process. The estimated administrative impact:

A new reporting form will need to be developed to track and monitor the tax on the sale of cannabis. 2 Associate Customer Service Representatives (ASCR) at $24,360 for processing reporting forms, phone calls and correspondence received. 1 Management Analysis Specialist (MAS) at $38,476 to work with Division of Alcohol and Tobacco Control to administer this section as significant coordination may be required. Their department will need to make programming changes to the current sales and use tax databases. This is estimated at $10,000.

They also provided the following information:

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: 22-063

BILL:

FUND: MERG

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2022	FY 2023	FY 2024
ASCR	2	$24,360			$49,699
MAS	1	$38,476			$39,249
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**3**		**3**	**3**	**3**
Total Salaries			**$0**	**$0**	**$88,949**
Fringe Benefits					**$65,840**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____
BILL: _____
FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2022	FY 2023	FY 2024
Cubicle w/work surface &	580	3	$6,800			$20,400
Chair	580	3	$596			$1,788
Calculator	580	3	$20			$60
Desk Computer System &	480	3	$1,371			$4,113
Telephone Cisco US Stand	340	3	$525			$1,575
computer programmming		1	$10,000			$10,000
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$0	$0	$37,936
Expenses	**BOBC**	**Units**	**Unit Cost**			
Expendable Supplies		3	$372			$1,172
Recurring Expenses		3	$107			$337
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$0	$1,509
TOTAL EQUIPMENT AND EXPENSE				$0	$0	$39,445
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2022	FY 2023	FY 2024
Salaries	$0	$0	$88,949
Fringe Benefits	$0	$0	$65,840
Equipment and Expense	$0	$0	$39,445
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$0**	**$194,234**
II. Fund Revenue Sources			
cannabis recreational sales tax	$0	$0	$12,173,807-$18,815,775
Fines	$0	$0	$0
Administrative Sanctions	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND REVENUE - ALL SOURCES	**$0**	**$0**	**$0**
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**$0**	**$12,173,807-$18,815,775**

Officials from the **Department of Public Safety - Office of Director** indicated no impact for the Department of Public Safety, Director's office. The Missouri Veterans Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office. The following responses are from the Division of Alcohol and Tobacco Control and the Missouri State Highway Patrol.

The Division of Alcohol and Tobacco Control (ATC) provided the following:

This proposal will affect local law enforcement and city and county licensing authorities.

They will need to increase the space for each district office to accommodate 24 additional staff in the Jefferson City office, 14 additional staff in the St. Louis office and 13 additional staff in the Springfield and Kansas City offices, along with additional storage space for evidence, for fingerprinting scanners and reception space to consult with licensees.

Jefferson City Office (Expansion) - They are requesting an additional 8,400 square feet of office space for 24 FTE, along with a reception area and evidence room. (300 square feet for each FTE, 600 square feet for evidence storage, and 600 square feet for reception area).

Rental Rate - $151,200 ($18 per square feet X 8,400 square feet) and Janitorial $12,600 ($1.50 per square feet X 8,400) and Utility Rates $16,800 ($2.00 per square feet X 8,400) - $29,400 ($3.50 per square feet X 8,400)
TOTAL FOR JEFFERSON CITY - $180,600

Kansas City Office (Expansion) – They will need 5,100 square feet of office space for 13 FTE, along with a reception area and evidence room. (300 square feet for each FTE, 600 square feet for evidence storage, and 600 square feet for reception area).

Rental Rate - $107,100 ($21 per square feet X 5,100 square feet) and Janitorial $7,650 ($1.50 per square feet X 5,100) and Utility Rates $10,200 ($2.00 per square feet X 5,100) - $17,850 ($3.50 per square feet X 5,100)
TOTAL FOR KANSAS CITY - $124,950

Springfield Office (Expansion) – They will need 5,100 square feet of office space for 13 FTE, along with a reception area and evidence room. (300 square feet for each FTE, 600 square feet for evidence storage, and 600 square feet for reception area).

Rental Rate - $91,800 ($18 per square feet X 5,100 square feet) and Janitorial $7,650 ($1.50 per square feet X 5,100) and Utility Rates $10,200 ($2.00 per square feet X 5,100) - $17,850 ($3.50 per square feet X 5,100)
TOTAL FOR SPRINGFIELD - $109,650

St. Louis Office (Expansion) - They will need 5,400 square feet of office space for 14 FTE, along with a reception area and evidence room. (300 square feet for each FTE, 600 square feet for evidence storage, 600 square feet for reception area).

Rental Rate - $113,400 ($21 per square feet X 5,400 square feet) and Janitorial $8,100 ($1.50 per square feet X 5,400) and Utility Rates $10,800 ($2.00 per square feet X 5,400) - $18,900 ($3.50 per square feet X 5,400)
TOTAL FOR ST. LOUIS - $132,300

They are also requesting an additional $150,000 per location for renovation costs that are not covered in the above figures for a total of $600,000.

TOTALS
Total Rent Costs – (24,000 square feet) - $463,500
Total Janitorial – (24,000 square feet X $1.50) $36,000
Utility Rates – (24,000 square feet X $2.00) - $48,000
Renovation Costs – (First year only) - $600,000
TOTAL COSTS - $1,147,500

The opportunities for small businesses to be included in this new industry are great. It will provide new opportunities for licensees to open businesses across the state to manufacture, produce, retail, or test marijuana products that are currently not legal. In Colorado, as of December 1, 2020, there were 1,616 licensed businesses as a result of adult use marijuana. In addition, Colorado has 41,564 occupational licenses related to marijuana as of December 1, 2020 (Note this number includes all marijuana occupational licensees as medical occupational licensees can work both retail and medical marijuana establishments). (Colorado Department of Revenue Retail Marijuana Facilities).

The following is the Office of Administration - Information Technology Services Division's (ITSD's) estimate. They will need a seed to sale tracking of each marijuana plant, and licensing of all establishments as well as occupational licenses for those involved in the manufacture, production, testing or sale of marijuana. Note: This response was provided in January 2021 for other proposed adult use marijuana legislation. They did not have enough time to get an updated response, but estimates similar costs.

ITSD Response

Fiscal Note	IP 22-063		ITSD - DPS		
Bill Number					
Will a new system be required?		X	Yes		No
Indicate fiscal year when fully implemented			FY 2023		
ESTIMATED NET EFFECT ON STATE FUNDS					
Fund Affected			**FY23**	**FY24**	**FY25**
General Revenue			1,000,000	-	-
Other			-	-	-
Federal Funds			-	-	-
Total			1,000,000	-	-
It is assumed that every new IT project/system will be bid out because all ITSD resources are at full capacity.					
Bill Section(s)	Article XIV, Section 2				
			FY23	FY24	FY25
New	Rate	Hours	$	$	$
IT Consultants	95	746.31	70,900	-	-
Other Costs:					
Procurement of Licensing System	929,100	1	929,100	-	-
Section Total Other Costs:			929,100	-	-
Section Total Expenditures:			1,000,000	-	-
Section Funding:	General Revenue		1,000,000	-	-
	Federal		-	-	-
	Other		-	-	-
		Total	1,000,000	-	-

They will model the fiscal effects similar to the Colorado law enacted in 2012. Colorado's FY20 revenue from sales tax of 15% from recreational marijuana was almost $226 million (Colorado brought in more than $319 million in taxes for FY20, including sales tax and excise tax. Colorado DOR Marijuana Tax Data) This constitutional amendment does not provide for an excise tax and has a retail sales tax rate of 7.5%. Since Missouri's population of over 6.1 million exceeds Colorado's approximately 5.8 million, they believe Missouri will generate at least 6% more in sales. Since licenses will not be issued until August, 2023,

they do not predict a collection of retail sales tax in FY23. They predict first year sales tax revenue of over $89 million in FY24.

In addition, Washington generated over $185 million in tax revenue during the first fiscal year (FY16), over $387 million during FY19 and over $468 million during FY20. That number will continue to increase as the market continues to grow and refine. (Washington State Liquor and Cannabis Board – Fiscal Year Sales and Excise)

Sales of small amounts of recreational marijuana for personal use began October 1, 2015 in Oregon, and licensing began in 2016. Oregon generated over $70 million during FY17, over $82 million during FY18 and over $133 million during FY20. (Oregon DOR Marijuana Tax Statistics – Tax Payments Received).

Revenue will be generated from licensing establishments for the cultivation and production of marijuana for adult use. Revenue collected will be deposited into a marijuana cash fund that will be used for the administration and enforcement of Article XIV, Section 2. They have estimated that deposits will not be made into this fund until FY24 as they will not begin accepting license applications until August 1, 2023 (FY24). They estimate that licensing and user fees will bring in $7,214,309 in the first year of operation (FY24) and $9,040,361 in the second year (FY25). Renewal fees will be the same amount as application license fees. They have estimated about a 10% turnover in licensing for the second year of operation. (See Attached schedule for a more detailed description of the revenue generation.)

They will annually review the fees and charges to determine if adjustments are necessary to reflect the actual direct and indirect costs of the division in the administration and enforcement of the adult use marijuana licensing program.

They do not believe the first two years will result in monetary disciplinary penalties as the licensing process will not begin until FY24. It is estimated that in FY25 and ongoing, monetary penalties could result in between $25,000 - $500,000 annually. *(It should also be noted that they believe it might be a conflict of interest to receive the financial benefits from the administrative disciplinary process by being responsible for enforcing the law, administering discipline and then collecting money from the violators, and thus concludes that monetary penalties should be treated in the same manner as Alcohol and deposited into local school districts.)*

Section 2.2(13) names ATC as the division responsible for implementing this constitutional amendment. They will be responsible for implementing a comprehensive licensing and regulatory system for the cultivation, manufacture, sale, distribution, dispensing and testing of adult use marijuana and adult use marijuana products in the state of Missouri.

Section 2.3(2) requires ATC to promulgate rules for the proper regulation and control of the adult use marijuana act. In order to meet that deadline, they would initially hire a marijuana consultant who has experience in implementing an adult use marijuana program in other states. This person would help set out a framework for implementation of a seed

to sale tracking system, promulgate rules, and provide information on testing protocols that need to be in place to assure product integrity. This person would start January 1, 2023 and would require general revenue funding for his or her fee and expenses for the first year. They have estimated costs of approximately $6,492,870 in FY23, which would require general revenue funding as no revenue will be generated from licensing until after August 1, 2023. (See attached spreadsheet for more details). This estimate reflects total costs for the marijuana consultant and equipment, and partial costs for salaries and expenses, which are calculated as three months for FY23. They will not hire the new staff until April 1, 2023. An estimated two months of FY24 will also require general revenue funding.

Section 2.4(7) gives ATC authority to establish application, licensing and renewal fees, provided that the application/renewal fee does not exceed $2,500. (See attached revenue spreadsheet for details).

Section 2.4(8) gives ATC authority to establish certification and renewal fees, provided that the certification/renewal fee does not exceed $1,000. (See attached revenue spreadsheet for details).

Section 2.5(2) levies a retail sales tax on the sale of adult use marijuana at retail stores at a rate of 7.5%. The taxes shall be collected by the Department of Revenue. They have calculated estimated tax revenue based on Colorado's collections, adjusted to reflect 7.5% tax instead of 15% tax. They are not including the fiscal impact of retail sales tax on the fiscal note worksheet, as it will be collected by Department of Revenue and should be reported by Department of Revenue.

Section 2.5(7) provides that localities can choose to impose a retail sales tax on retail sales of marijuana.

To implement this constitutional amendment, they would add staff at four district offices (Kansas City, St. Louis, Springfield, and Jefferson City) and station a District Supervisor, ten Agent/Special Agents, an Administrative Office Support Assistant, and an Agricultural Expert in each office to be able to cover the territory more effectively and efficiently. This would allow potential licensees more direct access to ATC staff to facilitate licensing demands and respond to questions.

Each office would have an ID card printing device to facilitate the occupational licensing of an expected 43,866 possible owners, managers, officers, and employees of an approximate 1,715 licensed and certified establishments. These numbers were calculated using Colorado's statistics. Since Missouri has approximately 6% additional population, the numbers were adjusted to reflect that increase. The Jefferson City office will have two ID card printers. The total cost for the ID Card Printers and supplies will be approximately $85,157 in FY23.

Stringent background checks will be required and will require agents to follow up in various measures to assure the person applying is of good moral character, and that the affirmations in the application are valid and true. Inspections would be required to verify

information on the licensed premises, and to validate that the signage, security and sanitary requirements are being met. A thorough review of applicant's financial records must be made. Background checks would be required on each owner, officer, manager, stockholder, and all employees who work at or are otherwise associated with the operation. Following is the specific breakdown of the positions requested:

District Supervisor – 4 – ATC would locate a District Supervisor in each office to oversee the activities of ten Agent/Special Agents located in the field offices.

Agents/Special Agents – 40 – Special Agents would each be assigned a specific territory in the district to oversee licensing and regulation. Agents would be the key contact person for licensees to contact with questions and application problems. Agents would attend public hearings, perform inspections and do background checks. They will have 4 districts.

Administrative and Fiscal Manager – 1 – The Administrative and Fiscal Manager will be responsible for all budgetary, fiscal, administrative and legislative aspects of the adult use marijuana program.

Lead Administrative Support Assistant – 7 – The Lead Administrative Support Assistants will be assisting in the large amount of clerical work related to the implementation and ongoing licensing of all the retail marijuana stores, cultivation and production facilities, medical testing facilities, hospitality facilities, delivery and transportation certifications, and all the occupational licenses. Four will be located in the field offices (2 in St. Louis, 1 in Kansas City, 1 in Springfield) and three will be located in the Jefferson City central office.

Administrative Support Professional – 3 – The Administrative Support Professionals would be working with the administrative and licensing sections to process licenses, data entry, track statistics, and facilitate the composition of the reports required by law. They would in addition be utilized to assist in the payroll and payables of processing the increased transactions.

Auditor – 4 – The Auditors will be responsible for auditing licensed premises records to ascertain that the licensee is keeping records according to regulatory standards.

Staff Attorney (Marijuana) – 1 – This person would be responsible for sorting through the complex language of the bill, and interpreting the statutes and assisting with the promulgation of new rules to implement the act, as well as ongoing legal counsel regarding the adult use marijuana program.

Agricultural Expert – 4 – The agricultural experts will assist with the technical aspects of the marijuana growth process, cultivation, preparation of, testing of, storage of and anything to do with the product itself.

Expense and Equipment would be necessary for staff as outlined in the expense and equipment fiscal portion to include basic office equipment, laptops and telephone

equipment. Agents will need law enforcement equipment to include weapons, ammunition, ballistic vest, vehicles, travel expenses, etc. (See Attached Marijuana Fiscal Note Spreadsheet).

ITSD Response:

Note: This response was provided in January 2021 for other proposed adult use marijuana legislation. They estimate similar costs.

ITSD - DPS							
Bill Number	IP 22-063						
Bill Section(s)	Article XIV, Section 2						
Application Name:	New				**FY23**	**FY24**	**FY25**
IT Consultants		**On-going Yes/No**	**Rate *1**	**Hours**	**$**	**$**	**$**
Development work			95	691.03	65,648	-	-
Project Management *2			95	55.28	5,252	-	-
On-going support			95		-	-	-
Section Total IT Consultants:			95	746.31	70,900	-	-
Other Costs:			**Cost Per**	**Number**	**$**	**$**	**$**
Procurement of Licensing System		no	929,100	1	929,100	-	-
Section Total Other Costs:					929,100	-	-
Section Total Expenditures: *3					1,000,000	-	-
General Revenue					1,000,000	-	-
Federal					-	-	-
Other					-	-	-
Section Funding:					1,000,000	-	-
2. Does this proposal duplicate any other program?							
This potentially duplicates the DHSS medical marijuana system.							
8a. Provide narrative on the IT impact this bill would have (program expansion or modifications, new application, consolidation, etc.)							
ATC does not currently have a system with the proposed functionality. A new system would be needed.							
8b. Explanation of assumptions and methodology used in arriving at the impact; Please reference and/or attach any/all supporting documentation to email.							

The cost estimate is based on the projected cost for the Department of Health and Senior Services (DHSS) medical marijuana system. DHSS was designated as the department responsible for the regulation and licensure of medical marijuana after Missouri voted to legalize it in November of 2018. DHSS is currently developing a system for the regulation and licensure of marijuana, with a current estimated total cost of approximately one million dollars and expected completion toward the end of 2020. Development of the system is approximately ninety-eight percent complete. If passage of this bill would shift responsibility of the regulation and licensing of medical marijuana from DHSS to the Department of Public Safety, Division of Alcohol and Tobacco (DPS), DPS would have the option to adopt/carry forward the system work completed, or develop a separate/new system.

Additional Notes/Assumptions:
*1 The consultant rate of $95 per hour is an estimated rate based on current contract(s) pricing. It is assumed that any new IT project/system will be bid out, as all ITSD resources are at full capacity.
*2 Project Management hours is an estimated rate of 8% based on current/projected averages.
*3 BOBC 400

Comments:

ATC believes that for the proper administration and enforcement of the adult use marijuana initiative petition, the division would need to be authorized with powers of arrest. This could be done by adding "Article XIV, Section 2 relating to adult use marijuana" as below:

311.630. 1. The supervisor of alcohol and tobacco control and employees to be selected and designated as peace officers by the supervisor of alcohol and tobacco control are hereby declared to be peace officers of the state of Missouri, **[**with full power and authority to make arrests and searches and seizures only for violations of the provisions of**] whom shall be vested with the powers and duties specified in this chapter and all powers necessary to enable such peace officers to fully and effectively carry out the purposes of** this chapter relating to intoxicating liquors, **Article XIV section 2 relating to adult use marijuana,** and sections 407.924 to 407.934 relating to tobacco products, and to serve any process connected with the enforcement of such laws. The peace officers so designated shall have been previously appointed and qualified under the provisions of section 311.620 and shall be required to hold a valid peace officer license pursuant to chapter 590.

2. The supervisor of alcohol and tobacco control shall furnish such peace officers with credentials showing their authority and a special badge, which they shall carry on their person at all times while on duty. The names of the peace officers so designated shall be made a matter of public record in the office of the supervisor of alcohol and tobacco control.

3. All fees for the arrest and transportation of persons arrested and for the service of writs and process shall be the same as provided by law in criminal proceedings and shall be taxed as costs.

Technical errors:

Section 2.2 (8) refers to the division of health and senior services. This should read department of health and senior services.

Section 2.3 (2) (l) refers to the preparation of "medical marijuana-infused products". Since this section is the adult use section and not the medical marijuana section, ATC believes this should be changed to marijuana-infused products or cannabis-infused products.

Section 2.3 (2) (r) refers to the division of revenue. This should read the department of revenue.

Section 2.6 has two subsection (3). The second subsection (3) should be changed to (4), subsection (4) changed to (5), subsection (5) changed to (6), subsection (6) changed to (7), subsection (7) changed to (8), subsection (8) changed to (9), and subsection (9) changed to (10).

Section 2.7 has two subsection (3) and subsection (4). The second subsection (3) should be changed to (5), and the second subsection (4) should be changed to (6).

Section 2.7 (3) (the first one) states that the local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees or certificate holders. The word "fees" should be changed to "fee".

They also provided the following information:

FISCAL ESTIMATE WORKSHEET **FISCAL NOTE:** IP 22-063
OVERSIGHT DIVISION (573)751-4143 **BILL NO:**
FAX (573)751-7681

Instructions

SUMMARY OF FISCAL IMPACT

Type of Fiscal Note Response:

Agency:	Public Safety	Date:	9/10/2021
Division:	Alcohol & Tobacco Cont	Telephone:	573-751-5449
Preparer:	Kristen Cole	E-Mail Address:	kristen.cole@dps.mo.gov
Preparer's Signature:	Kristen Cole	No Impact on Agency:	
Approval Signature:	Kristen Cole	No Local Fiscal Impact:	
Oversight Analyst:			

Note: if both of the "no impact" lines are checked, you only need to complete the "Summary of Fiscal Impact" and "Overview-Questions" worksheets.
Create and complete separate worksheets for each state fund affected.

ESTIMATED NET EFFECT ON STATE FUNDS

Fund Affected	FY 2023	FY 2024	FY 2025
General Revenue	($6,492,870)	($1,156,985)	$0
Adult Use Fund	$0	$644,187	$1,224,101
Total Estimated Net Effect on All State Funds	**($6,492,870)**	**($512,798)**	**$1,224,101**

ESTIMATED NET EFFECT ON FEDERAL FUNDS

Federal Funds	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS

Total Estimated Net Effect on All Local Funds	**$0**	**$0**	**$0**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-063

BILL:

FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category **Personnel by Position**	**FTEs**	**Annual Salary**	**FY 2023**	**FY 2024**	**FY 2025**
District Supervisor	4	$58,389	$58,389	$39,315	$0
Agents/Special Agents	40	$51,112	$511,120	$344,154	$0
Admin/Fiscal Manager	1	$68,000	$17,000	$11,447	$0
Lead Adm. Spprt. Asst.	7	$35,000	$61,250	$41,242	$0
Auditors	4	$47,000	$47,000	$31,647	$0
Staff Attorney	1	$80,000	$20,000	$13,467	$0
Agricultural Expert	4	$70,000	$70,000	$47,133	$0
Administrative Support Profession	3	$38,500	$28,875	$19,443	$0
Marijuana Consultant **	1	$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
** Costs under Prof.		$0	$0	$0	$0
Services below		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Note - FY'23 estimates the		$0	$0	$0	$0
cost for 3 months. FY'24		$0	$0	$0	$0
estimates the cost for 2 months.		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**65**		**65**	**65**	**65**
Total Salaries			**$813,634**	**$547,847**	**$0**
Fringe Benefits			**$468,626**	**$314,248**	**$0**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-063

BILL:

FUND: General Revenue

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FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2023	FY 2024	FY 2025
Computer Equipment	480	64	$1,663	$106,432		
Motorized Equip.	560	52	$34,000	$1,768,000		
Office Equipment	580	64	$10,175	$651,200		
Other Equip.	590	52	$12,566	$653,432		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$3,179,064	$0	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Travel	140	52	$2,400	$31,200	$21,320	$0
Supplies	190	64	$5,388	$86,208	$58,909	$0
Professional Development	320	64	$800	$12,800	$8,747	$0
Comm. Srv./Supply	340	64	$3,412	$54,592	$37,305	$0
Professional Services	400	44	$3,709	$1,040,799	$27,879	$0
Maintenance & Repair	430	64	$4,167	$66,672	$45,559	$0
Miscellaneous	740	64	$150	$2,400	$1,640	$0
			$0	$0	$0	$0
Professional Services			$0	$0	$0	$0
covers hiring a consultant			$0	$0	$0	$0
and ITSD costs in FY'23.						
			$0	$0	$0	$0
Leasing Costs		1	$547,500	$736,875	$93,531	$0
including Janitorial, and			$0	$0	$0	$0
Utilities. Renovation costs			$0	$0	$0	$0
for FY'23.			$0	$0	$0	$0
TOTAL EXPENSE				$2,031,546	$294,890	$0
TOTAL EQUIPMENT AND EXPENSE				$5,210,610	$294,890	$0
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-063

BILL:

FUND: General Revenue

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2023	FY 2024	FY 2025
Salaries	$813,634	$547,847	$0
Fringe Benefits	$468,626	$314,248	$0
Equipment and Expense	$5,210,610	$294,890	$0
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$6,492,870**	**$1,156,985**	**$0**
II. Fund Revenue Sources			
Taxes	$0	$0	$0
Fines	$0	$0	$0
Administrative Sanctions	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND REVENUE - ALL SOURCES	**$0**	**$0**	**$0**
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**($6,492,870)**	**($1,156,985)**	**$0**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-063

BILL:

FUND: Adult Use (ATC) Fund

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2023	FY 2024	FY 2025
District Supervisor	4	$59,389	$0	$199,943	$242,331
Agents/Special Agents	40	$51,112	$0	$1,720,771	$2,085,574
Admin/Fiscal Manager	1	$68,000	$0	$57,233	$69,367
Lead Adm. Spprt. Asst.	7	$35,000	$0	$206,208	$249,925
Auditors	4	$47,000	$0	$158,233	$191,779
Staff Attorney	1	$80,000	$0	$67,333	$81,608
Agricultural Expert	4	$70,000	$0	$235,667	$285,628
Administrative Support Profession	3	$38,500	$0	$97,213	$117,822
Marijuana Consultant **	1	$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
** Costs under Prof.		$0	$0	$0	$0
Services below		$0	$0	$0	$0
		$0	$0	$0	$0
Note - FY'24 estimates the		$0	$0	$0	$0
cost for 10 months. The first 2		$0	$0	$0	$0
months will be paid from GR.		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**65**		**65**	**65**	**65**
Total Salaries			**$0**	**$2,742,601**	**$3,324,033**
Fringe Benefits			**$0**	**$1,572,378**	**$1,897,961**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-063

BILL:

FUND: Adult Use (ATC) Fund

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2023	FY 2024	FY 2025
Computer Equipment **	480	64	$1,663	$0	$21,286	$21,286
Motorized Equip. **	560	52	$34,000	$0	$707,200	$707,200
Office Equip. **	580	64	$10,175	$0	$19,536	$19,536
Other Equip. (Other) **	590	52	$12,566	$0	$32,672	$32,672
			$0	$0		
**Reflects a replacement			$0	$0		
cost in FY'23 and each			$0	$0		
year after			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$0	$780,694	$780,694
Expenses	**BOBC**	**Units**	**Unit Cost**			
Travel	140	52	$2,400	$0	$106,600	$131,118
Supplies	190	64	$5,388	$0	$294,544	$362,289
Professional Development	320	64	$800	$0	$43,733	$53,792
Comm. Srv./Spply	340	64	$3,412	$0	$186,523	$229,423
Professional Services	400	44	$3,709	$0	$139,397	$171,458
Mnt & Repair	430	64	$4,167	$0	$227,796	$280,189
Miscellaneous	740	64	$150	$0	$8,200	$10,086
			$0	$0	$0	$0
** See Detail in attached			$0	$0	$0	$0
spreadsheets			$0	$0	$0	$0
Leasing Costs		1	$547,500	$0	$467,657	$575,217
including Janitorial			$0	$0	$0	$0
and Utilities			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$1,474,449	$1,813,572
TOTAL EQUIPMENT AND EXPENSE				$0	$2,255,143	$2,594,266
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-063

BILL:

FUND: Adult Use (ATC) Fund

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2023	FY 2024	FY 2025
Salaries	$0	$2,742,601	$3,324,033
Fringe Benefits	$0	$1,572,378	$1,897,961
Equipment and Expense	$0	$2,255,143	$2,594,266
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$6,570,122**	**$7,816,260**
II. Fund Revenue Sources			
Taxes	$0	$0	$0
Fines	$0	$0	$0
Administrative Sanctions	$0	$0	$0
Other Sources (Licensing and Fees)	$0	$7,214,309	$9,040,361
TOTAL FUND REVENUE - ALL SOURCES	**$0**	**$7,214,309**	**$9,040,361**
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**$644,187**	**$1,224,101**

Division of Alcohol and Tobacco Control - IP 22-063

Sep-21

Class Title	Qty	Unit Cost	Ongoing Annual Costs
	-	-	-
District Supervisor	4	59,389	237,556
Agents/Special Agents	40	51,112	2,044,480
Auditor	4	47,000	188,000
Admin/Fiscal Manager	1	68,000	68,000
Lead Administrative Support Assistant	7	35,000	245,000
Administrative Support Professional	3	38,500	115,500
Agricultural Expert	4	70,000	280,000
Staff Attorney	1	80,000	80,000
Marijuana Consultant Expert	1	-	-
	65		
Total PS			**3,258,536**

The costs reflected in the fiscal note for FY'24 reflect the percentage cost increase that is calculated in the ongoing years. This worksheet shows as if calculated as FY'23 expenses.

	BOBC	Qty	Amount	Total	FY'23 E&E Costs	Ongoing Annual Costs	ONE TIMES
Travel - In-State	140				124,800	124,800	
Travel expenses ($200 per month)		52	2,400	124,800			
Supplies	190				344,820	344,820	
Office Supplies		64	372	23,808			
ID Card Printer Supplies		1	29,812	29,812			
Ammunition (for two firearms)		44	1,300	57,200			
Gasoline (2,500 miles/20 mpg X $3 per gallon)		52	4,500	234,000			
Professional Development	320				51,200	51,200	
Ongoing Enforcement Training & Professional Development		64	800	51,200			
Communication Services and Supplies	340				218,344	218,344	
Cell phone service ($45 a month)		54	540	29,160			
PC Internet Wireless Services ($60 a month)		64	720	46,080			
Software Licenses Annually		64	400	25,600			
AD & Exchange ($87.96 a month)		64	1,056	67,584			

Telecommunication Relocations		64	300	19,200			
Phone Service ($40 per month)		64	480	30,720			
Professional Services	400				163,200	163,200	
Marijuana Consultant Expert		1	150,000	150,000			
ID Checker Software Service ($25 a month)		44	300	13,200			
Maintenance and Repair	430				266,695	266,695	
Vehicle Maintenance & Repair		52	4,080	212,160			
ID Card Printer Maintenance & Repair		5	667	3,335			
Computer Equipment Maintenance and Repair		64	800	51,200			
Computer Equipment	480				106,394	21,279	85,115
Notebook		64	1,525	97,600			
Monitor		64	121	7,744			
Printers		7	150	1,050			
Motorized Equipment	560				1,768,000	707,200	1,060,800
Automobile		52	34,000	1,768,000			
Office Equipment	580				651,171	19,535	631,636
ID Card Printers		5	11,069	55,345			
Filing Cabinets		64	600	38,400			
Phones - single line		64	200	12,800			
Calculator		64	20	1,280			
Copier, Scanner, Printer		4	7,500	30,000			
Side Chairs for reception, and guest chairs		102	315	32,130			
Chairs		64	600	38,400			
Focus Projectors and Screens		7	1,088	7,616			
MVE System Furniture		64	6,800	435,200			
Other Equipment	590				653,440	32,672	620,768
Weapon (Two per agent)		44	1,400	61,600			
Handheld Radios ($6,000) and Car Radios ($5,000) (Interoperable Systems)		44	11,000	484,000			
Ballistic Vest		44	1,200	52,800			
Mace/camera/other equipment		44	110	4,840			
Uniforms/ Jackets, etc.		52	500	26,000			
Duty Belt/ Duty Gear		44	550	24,200			
Miscellaneous	740	64	150	9,600	9,600	9,600	-
Total Expense and Equipment			**277,425**		**4,357,664**	**1,959,345**	**2,398,319**

NOTE: LEASING EXPENSES WOULD COME OUT OF HB 13 AND ARE NOT CALCULATED IN THIS REQUEST				
FY'23 Initial Year (includes one-time costs)	**PS**	**3,258,536**	1,851,976	
	E&E	**4,357,664**	fringe benefits	
	Total	**7,616,200**		9,468,176
FY'24 and Ongoing Years (Excluding one-times)	**PS**	**3,356,292**		
	E&E	**1,959,345**	1,884,969	
	Total	**5,315,637**		7,200,606

Retail Fees - Estimated

	As of 12-01-2020 Colorado No. of Licenses	Missouri Projected No.	Application Fee	FY'23 Total Revenue	FY'24 Total Revenue	FY'25 Total Revenue
Cannabis Retail Facility	604	637	$ 2,500	$ -	1,328,023	1,593,628
Cannabis Cultivation Facility	712	751	$ 2,500	$ -	1,565,484	1,878,581
Cannabis Manufacturing Facility	288	304	$ 2,500	$ -	633,229	759,875
Cannabis Hospitality Facility	-	10	$ 1,000	$ -	8,333	10,000
Cannabis Testing Facility	12	13	$ 1,000	$ -	10,554	12,665
Delivery	10	11	$ 1,000	$ -	8,795	10,554
Transportation	10	11	$ 500	$ -	4,397	5,277
	1,616	1,715				
Occupational Licenses	41,564	43,866	$ 100	$ -	3,655,493.15	4,386,591.78
				$ -	7,214,309	8,657,171
Administrative Service Fees		Estimate 10%				
Transfer of Ownership		172	$ 1,000	$ -	-	171,550
Change of Ownership		172	$ 800	$ -	-	137,240
Location Change		124	$ 500	$ -	-	62,000
Modification of Premise		124	$ 100	$ -	-	12,400
Total Licensing Fee and Other Fees				**$ -**	**7,214,309**	**9,040,361**

	Colorado Sales Tax Reve	Missouri Est. Revenue	FY'23	FY'24	FY'25
Colorado has a 15% Sales Tax Rate Missouri will impose 7.5%	226,211,275	119,369,709	$ -	89,527,282	119,369,709

Colorado Population	5,845,530
Missouri Population	6,169,270
Difference	323,740
	6%

* Based on a 10% Turnover Rate, I calculate that every year there will be an approximate 10% of changing business situations, and turnover of employees.

The Missouri State Highway Patrol provided the following impact and concerns:

There are approximately 32,327 records in the Traffic Arrest System (TAS) pertaining to arrests completed by the Missouri State Highway Patrol that could possibly meet the requirements of this proposed constitutional amendment. These are arrest records with or without a court conviction with an NCIC modifier of 60-64 that relate to marijuana offenses. However, due to the uncertain nature of this proposal to amend Missouri's Constitution, the Patrol Records Division (PRD) has no true way to determine the actual impact associated with such a proposal. If PRD is required to simply complete a mass expungement of all 32,327 records without processing individual court orders, then this could probably be completed by the Criminal Justice Information Services Division (CJIS) programming the TAS. However, if PRD is required to process 32,327 court orders for this endeavor, then the division will require 9 FTE to process the court orders.

1 full-time employee (FTE) = 1,864 hours (average work hours per year) x 60 minutes per hour = 111,840 minutes per year.

30 minutes = estimate of the amount of time per petition to log, process, research, review, and expunge the information/record when the order is received.

1 FTE can process 3,728 expungements per year = 111,840 / 30.

32,327 / 3,728 = 9 FTEs

The approximate cost for 9 FTEs would be $477,000 including fringe benefits.

The fiscal impact would also include the cost associated with replacing all but 2 of the Patrol's canines. The Patrol's canines are currently trained using cannabis/marijuana as one of four drugs they are to alert to. The purchase and initial training for a canine is approximately $25,000. The overall cost to purchase and train the current canine program would be approximately $175,000 ($25,000 X 7). The time to train these canines could take up to three years. Not only will there be a financial impact to the Patrol, there will also be an impact to the services provided to other law enforcement agencies until the unit reaches full capacity.

In addition to the fiscal impact, the following are the Patrol's concerns based on what other states have reported:

In 2009, Colorado traffic fatalities involving drivers testing positive for marijuana represented 9% of the total traffic fatalities. Recreational marijuana use was legalized in 2012. By 2019, that number more than doubled to 21%.

Since recreational marijuana was legalized in 2013, Colorado traffic deaths in which drivers tested positive for marijuana increased 135% while all Colorado traffic deaths increased 24%.

Marijuana-related deaths when a driver tested positive for marijuana more than doubled from 55 deaths in 2013 to 129 deaths in 2019.

The yearly number of marijuana related hospitalizations increased 101% after the legalization of marijuana, (2009-2017).

Colorado's youth for 2020 marijuana use was 43% higher than the national average.

The average THC levels in marijuana has increased significantly over the years: 1969-0.8%, 1995-4%, 2013-13%, 2017-20+%, Oil, 1995-13%, 2013-52%, highest plant 38%, highest oil 95%+.

Medical marijuana has been legal in the state of Colorado since 2000. On November 12, 2012, the state of Colorado passed Amendment 64, which legalized private use of marijuana. Per the Colorado State Patrol's driving under the influence statistics, marijuana DUI citations increased 25.5% from 2014 to 2018 and marijuana and alcohol citations increased 112% in the same time range. As marijuana becomes legalized, its use increases.

The three years after Colorado legalized marijuana for recreational use (2013-2015), its use increased in youth ages 12-17, by 12%, in young adults aged 18-25 by 16%, and adults 26 and older by 71%. By removing the recommended acceptable ages of use, zoning regulations, packaging, and advertising of cannabis/marijuana, the risk of use and abuse of marijuana by the youth of Missouri is substantially increased. This category of Missourians, who recent studies have shown significant long-term cognitive impairment when marijuana is ingested during the developmental years, would be affected.

In Missouri, medical marijuana was legalized by Amendment 2 and took effect December 2018. As of July 9, 2020, 18 states and Washington D.C. have legalized recreational marijuana and 37 states have legalized medical marijuana. In a 2013-2014 National Highway Traffic Safety Administration (NHTSA) roadside survey, 20% of the nighttime and weekend drivers tested positive for drugs. Interestingly, the number of daytime drugged drivers was approximately the same amount as night and weekend drugged drivers. A roadside study in Colorado and Washington, the first two states to legalize marijuana for recreational use, showed the primary increase of marijuana users happened to their daytime drivers. The percent of drivers that tested positive for marijuana during the day went from 8%, before recreational marijuana sales, to 23%, 6-12 months after marijuana was legalized. There was a 48% increase in weekend nighttime drivers testing positive for THC or 11-OH-THC (an active metabolite of THC) from 2007 to 2014.

Montana legalized medical marijuana in 2004 and from 2007-2010, the presence of marijuana in DUI suspects increased over 100%. Also, the number of DUI suspects who tested positive for alcohol and marijuana increased by over 180%.

This has Department of Health and Senior Services (DHSS) being the agency that enforces it. The concern is that DHSS has no police powers which would inhibit enforcement efforts.

This initiative petition will remove cannabis/marijuana from Missouri Revised Statutes and creating conflict with both several Federal and State laws, such as the use or possession of a firearm, and could conflict and violate federal law. This initiative petition does not support the Gun Control Act (GCA), codified at 18 U.S.C. § 922.

As Section 2 includes the central repository, there is a CJIS technical impact to remove any offenses identified in the proposal including FBI records. This significance of the CJIS technical impact is unclear as the court petition process is not clearly defined and the proposal does not identify if expungement means to destroy or close the record.

The authority to submit fingerprints to the FBI for a federal fingerprint based criminal record check is not authorized though the Initiative Petition process. Federal fingerprint based criminal record checks authorized under P.L. 92-544 can only be approved under a state statute that has gone through the full legislative process. All legislative proposals and statute changes that involve access to FBI criminal history must be vetted through the FBI Criminal Justice Information Law Unit (CJILU) for approval prior to utilization. Section 195.815 RSMo covers the federal fingerprint based criminal record checks that the Initiative Petition is referencing, however, the Department of Health and Senior Services is proposing changes to 195.815 RSMo to obtain FBI approval, which may enable the use as a P.L. 92-544 statute.

As the Patrol has officers assigned to federal task forces that may be involved in a federal drug operation, there are concerns over potential civil litigation resulting from these types of operations, as marijuana is still classified as a Schedule I controlled substance, and illegal under federal law.

The Patrol operates in accordance with the Drug-Free Workplace Act of 1988, which requires a drug testing program. This program tests potential employees as well as random testing for incumbent employees in enforcement, and drug sensitive areas.

Noted in Section 1.7 (1) (d), this provides good protection for employers. The Patrol believes this needs to be added to Section 2 of the initiative petition as well.

Another concern is the inability to properly train officers as laws have not yet been established. Further training is currently needed on medical marijuana laws, and more training will need to be established if this passes. Once recreational use passes, other intoxicating/impairing substances may be targeted for legalization/decriminalization as they have in many other states. One example is Oregon which has decriminalized psilocybin, cocaine, heroin, oxycodone, methamphetamine, and other drugs.

If passed, this petition will conflict with federal cannabis/marijuana laws and could cause significant conflict with several Federal and State laws, such as the use or possession of a firearm. Cannabis/marijuana causes impairment and is not a suitable drug to be used in various safety sensitive positions in the workforce, therefore strong language protecting employers is suggested. The workforce which could be affected would include any position

where safety is a must, such as operating a motor vehicle, operating heavy machinery, and all aspects of public safety.

There is no language as to where the cannabis/marijuana may remain, such as any cannabis/marijuana purchased or grown in Missouri must remain in Missouri. While this is a federal offense, a lack of this type of language may allow Missouri cannabis/marijuana facilities to distribute cannabis/marijuana outside of the state or allow other states to distribute their cannabis/marijuana in Missouri. A lack of such language could lead to Missouri being a distribution state for states where cannabis/marijuana remains illegal.

The Patrol believes this initiative petition could be a detriment to the medical marijuana program Missouri has established. Across the board this initiative petition pushes legalizing or decriminalizing marijuana for everyone. Possession and cultivation amounts are raised, taxes and fines are decreased, and public safety aspects are removed or so specific that violators will likely never be convicted or prosecuted. This initiative petition will allow marijuana to be advertised similarly to alcohol, which is concerning due to the abuse of alcohol by minors.

For further consideration, as the legalization or decriminalization of cannabis/marijuana has increased in the past several years, so have the crashes and deaths on highways. Blood screenings on drivers in serious injury and fatal crashes have shown a staggering increase in drivers who have cannabis/marijuana within their system at the time of the crash.

Overall cost to the Patrol:
9 full-time employees = $477,000
7 new canines for the canine program = $175,000
Total cost = $652,000

Officials from the **Department of Social Services** indicated this has no fiscal impact on their department.

Officials from the **Governor's office** indicated this proposal relating to cannabis should not fiscally impact their office.

Officials from the **House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated language with respect to the expungement of marijuana convictions within the initiative petition would prevent enforcement of 49 CFR § Parts 391 and 392. These federal regulations relate to the possession of and use of controlled substances by commercial motor vehicle drivers.

The expungement language, found in the section entitled *Public Safety*, Section 2.6(7), would keep the marijuana-related convictions of commercial motor vehicle (CMV) drivers

from appearing in their criminal records. This would force Missouri agencies to forgo enforcement of Federal Motor Carrier Safety Regulations (FMCSRs) pertaining to the use of disqualified drivers.

If prior marijuana convictions are wholly expunged from criminal records, the records of CMV drivers who had been convicted of marijuana-related offences would not retain this information, yet the driver is technically not qualified to operate a CMV. Further, neither the Missouri Department of Transportation (MoDOT) Motor Carrier Services nor other motor carrier enforcement agencies could know of the convictions when making enforcement determinations.

In order to receive the Motor Carrier Safety Assistance Program (MCSAP) funding, Missouri must enforce the FMCSRs in whole. The expungement of marijuana convictions would prevent enforcement of 49 CFR § Parts 391 and 392.

Per 49 CFR § 350.215 – The penalty imposed upon states found to be in noncompliance can be as harsh as withholding all MCSAP funding; or
Withholding up to 5 percent of MCSAP funds during the fiscal year that the FMCSA notifies the State of its noncompliance;
Up to 10 percent of MCSAP funds for the first full fiscal year of noncompliance;
Up to 25 percent of MCSAP funds for the second full fiscal year of noncompliance; and
Not more than 50 percent of MCSAP funds for the third and any subsequent full fiscal year.

Missouri's share of MCSAP funds in fiscal year (FY) 2021 are $7,060,488.

Officials from the **Office of Administration** indicated this proposal would legalize recreational marijuana for any Missouri resident over the age of 21, beginning January 1, 2023.

Article XIV, Section 2.1 specifies that this section is not intended to supplant the medical marijuana market.

Article XIV, Section 1.3(1)(h) and (15-17) are removed which would eliminate the DHSS-imposed facility license caps likely resulting in an increase in TSR from additional facilities applying for licensure. **Article XIV, Section 1.3(12)** would reduce the annual cultivation fee from $100 per year to $25 per year. **Article XIV, Section 1.4(2)(a)** would limit the amount of funds to be kept by the Department of Health and Senior Services (DHSS) for the administration of the medical marijuana program to 20% of net deposits into the Missouri Veterans' Health and Care Fund. The language is unclear as to what constitutes net deposits. Budget & Planning (B&P) defers to DHSS for an impact on these provisions.

Article XIV, Section 2.4(7-9) allows the Department of Public Safety (DPS) to charge an application and annual renewal fee of up to $2,500 per application/annual renewal for cultivation, manufacturing, and retail facility licenses. Hospitality facilities are to be

charged a certification and annual renewal fee of up to $1,000. These certifications grant these facilities the permission to allow individuals to consume marijuana on business premises while also allowing the sale of food and beverages, including alcohol. Application and renewal fees shall be adjusted each year based on the rate of inflation. Additionally, for rejected applications, there may be a re-submittal fee of up to $500 if the business decides to reapply. **Article XIV, Section 2.5(1)** specifies that if application and renewal fees are insufficient for DPS to administer the program, they must request additional funding through a cash operating transfer from the Missouri Economic Recovery and Growth Fund created in **Section 2.5(3)**. These funds are to be repaid as provided by law.

DPS is permitted to allow business applicants to apply for a reduced application or renewal fee if the business meets certain qualifying factors including being located in areas with high unemployment; areas designated as Economic Disadvantaged Zones; being owned or operated by an entity denied a medical marijuana license based on application score; or businesses owned by minorities, veterans, and marginalized groups.

Licensed medical marijuana facilities may apply for recreational licensure at their current location of business.

B&P notes that medical marijuana facilities are charged the following fees under Article XIV, however the annual fees have been increased by DHSS since inception as permitted:

- medical marijuana cultivation facility: $5,000 application fee and $25,000 annual fee ($25,933.05 for FY 22)
- medical marijuana dispensary facility: $3,000 application fee and $10,000 annual fee ($10,373.22 for FY 22)
- medical marijuana infused-products manufacturing facility: $3,000 application fee and $10,000 annual fee ($10,373.22 for FY 22).

B&P notes that some facilities may choose to be licensed under Article XIV, Section 2, rather than under the medical marijuana provisions in Article XIV Section 1 due to the lower application and renewal fees. However, **Article XIV, Section 2.3(2)(s)** requires that facilities with medical marijuana contracts must require an adequate supply of medical marijuana, including basing the supply levels on historical sales. Supply contracts for medicinal use are to take precedence over supply contracts for recreational use. It is unclear how this may affect medical marijuana supply and sales, but this could reduce the amount of revenue to the "Missouri Veterans' Health and Care Fund", which receives monies from medical marijuana licensing and renewal fees. B&P is unable to determine the amount of fee revenues that may be lost due to this provision; however, in FY 2021 DHSS collected $13,971,974 in licensing fees. B&P defers to DPS and DHSS for further discussion on the application and licensing fees.

DPS is required to promulgate rules and issue licenses prior to June 30, 2023. If DPS does not meet this deadline, the rules and regulations for the licensing of alcoholic beverage manufacturing and sales will apply to recreational marijuana facilities. Further, local governments are to develop and adopt ordinances and policies prior to June 30, 2023. If

local governments do not meet this deadline, the rules and regulations for the licensing of alcoholic beverage manufacturing and sales will apply to recreational marijuana facilities.

Article XIV, Section 2.5(2)(a) would levy a 7.5% sales tax on retail sales of marijuana. DOR may retain up to 2% of collections for collection costs. All monies from the sales tax shall be deposited into the newly created "Missouri Economic Recovery and Growth Fund." **Subdivision (5)** would prohibit any other taxes from being levied on recreational marijuana. B&P notes that this would prohibit the Conservation sales tax (0.125%) under Article IV, Section 43(a); the Parks, Soil, and Water sales taxes (0.1% total) under Article IV, Section 47(a); and the School District Trust fund sales tax (1.0%) under Section 144.701, RSMo. **Subdivision (7)** would allow local governments to impose a sales tax in an amount up to the rate such jurisdiction imposes for alcohol or other retail sales tax, whichever is higher. B&P notes that for calendar year 2021, the average local sales tax rate is 4.03%.

Therefore, under this petition, the state tax rate for recreational marijuana will be the 7.5%. B&P notes that the total tax rate (excise and sales tax) on medical marijuana is currently 8.225%. Therefore, it is possible that some or all medical marijuana patients may opt to purchase recreational marijuana instead. This could result in reduced revenues to the Missouri Veterans' Health and Care Fund (4.0% excise tax); Conservation (0.125% sales tax); Parks, Soil, and Water (0.1% total sales tax); and education (1.0% sales tax). However, B&P notes that some of the reduced revenues from the other state funds would instead shift to the newly created "Missouri Economic Recovery and Growth Fund."

B&P notes that this petition does not grant DOR rule making authority and it does not contain any provisions regulating when retailers must submit recreational marijuana sales taxes to DOR. For the purpose of this fiscal note, B&P will assume that such retailers will remit sales tax collections to DOR based on existing statute and DOR regulations. However, it is possible that retailers could remit taxes on a different schedule. B&P defers to DOR for more information.

Article XIV, Section 2.5(3) creates the "Missouri Economic Recovery and Growth Fund". Monies in the fund shall be used for:

- One-third of collections – distributed to not-for-profit agencies and political subdivisions to provide free legal assistance for expungement of criminal records.
- Two thirds of collections – transferred to the general revenue fund

<u>Revenue Estimates</u>

B&P notes that while this proposal would begin January 1, 2023 sales tax collections would not begin until at least January 1, 2024 or later due to the application and approval process timelines set forth in Section 2.4(12). Therefore, B&P will reflect sales tax collections as beginning in early calendar year 2024 (late FY 2024).

Based on research, B&P was able to find forecasts for the U.S. legal market for cannabis. According to such forecasts, the U.S. market for legal marijuana will be approximately $32.1 billion in calendar year 2023 and grow up to $47.3 billion by calendar year 2027. Based on information from the Substance Abuse and Mental Health Services Administration[1], from 2018-2019 approximately 15.03% of Missouri residents and 16.98% of all U.S. residents surveyed have used marijuana within the last year. Using the populations of Missouri residents compared to the U.S. population, B&P estimates that the market for legal marijuana in Missouri is 1.66% of the total U.S. market. Therefore, B&P estimates that the Missouri market for legal marijuana would be approximately $534.1 million in calendar year 2023 ($32.1 billion x 1.66%) and up to $787.1 million by calendar year 2027 ($47.3 billion x 1.66%).

Based on further research[2], B&P estimates that there could be between 61,700 to 122,500 medical marijuana users in Missouri. Using these estimates, and the estimates shown above, B&P estimates that the Missouri market for medical marijuana would be between 0.14% and 0.29% of the total U.S. Market for legal marijuana. Therefore, B&P estimates that the total Missouri market for recreational marijuana would be 1.38% to 1.52% of the total U.S. market. Table 1 shows the estimated U.S. and Missouri markets for marijuana.

Table 1: Estimated Marijuana Market Size for the U.S. and Missouri

Calendar Year	Estimated U.S. Market Size	Estimated MO Market Size	Estimated MO Medical Market Size	Estimated MO Recreational Market Size
2024	$35,900,000,000	$597,379,769	$85,613,340	$511,766,429
2025	$39,700,000,000	$660,612,168	$102,341,724	$558,270,445
2026	$43,500,000,000	$723,844,567	$119,070,107	$604,774,460
2027	$47,300,000,000	$787,076,966	$135,798,491	$651,278,476

B&P notes that this petition could result in the shift of medical marijuana sales to recreational sales. For the purpose of this fiscal note, B&P will show the estimated impact as if all medical sales shift to recreational versus no medical sales shift to recreational.

Therefore, B&P estimates that this proposal may increase state revenues by $37,761,785 to $38,382,482 in calendar year 2024. By calendar year 2027, B&P estimates that this proposal may increase state revenues by $47,861,347 to $48,845,886. This proposal could also increase local revenues by $20,624,187 in calendar year 2024 and $26,246,523 by calendar year 2027. Table 2 shows the estimated revenues generated by calendar year.

[1] https://www.samhsa.gov/data/report/comparison-2015-2016-and-2016-2017-nsduh-population-percentages-50-states-and-district

[2] https://www.stltoday.com/news/local/metro/plenty-of-pot-study-says-missouri-will-license-twice-as/article_e94469b0-e1c6-5893-bc2e-e1d7b24f4a73.html

Table 2: Sales Tax Collections by Calendar Year

Fund	CY 2024		CY 2025	
State Funds	All Medical Shift	No Medical Shift	All Medical Shift	No Medical Shift
MO Econ Recovery and Growth Fund (7.5%)	$44,803,483	$38,382,482	$49,545,913	$41,870,283
General Revenue (3.0% tax) - Medical Sales Loss	($2,568,400)	$0	($3,070,252)	$0
Education (1.0% tax) - Medical Sales Loss	($856,133)	$0	($1,023,417)	$0
Conservation (0.125% tax) - Medical Sales Loss	($107,017)	$0	($127,927)	$0
Parks, soil, water (0.1% tax) - Medical Sales Loss	($85,613)	$0	($102,342)	$0
Veterans' Health and Care Fund (4% tax) - Medical Sales Loss	($3,424,534)	$0	($4,093,669)	$0
Total State Revenues	**$37,761,785**	**$38,382,482**	**$41,128,306**	**$41,870,283**
Local Funds				
Local Revenue (4.03% avg local tax rate)	$20,624,187	$20,624,187	$22,498,299	$22,498,299

Table 2: Sales Tax Collections by Calendar Year (cont.)

Fund	CY 2026		CY 2027	
State Funds	All Medical Shift	No Medical Shift	All Medical Shift	No Medical Shift
MO Econ Recovery and Growth Fund (7.5%)	$54,288,343	$45,358,085	$59,030,772	$48,845,886
General Revenue (3.0% tax) - Medical Sales Loss	($3,572,103)	$0	($4,073,955)	$0
Education (1.0% tax) - Medical Sales Loss	($1,190,701)	$0	($1,357,985)	$0
Conservation (0.125% tax) - Medical Sales Loss	($148,838)	$0	($169,748)	$0
Parks, soil, water (0.1% tax) - Medical Sales Loss	($119,070)	$0	($135,798)	$0
Veterans' Health and Care Fund (4% tax) - Medical Sales Loss	($4,762,804)	$0	($5,431,940)	$0
Total State Revenues	**$44,494,826**	**$45,358,085**	**$47,861,347**	**$48,845,886**
Local Funds				
Local Revenue (4.03% avg local tax rate)	$24,372,411	$24,372,411	$26,246,523	$26,246,523

However, B&P notes that if voter approved in November 2022, this proposal would not be enacted until January 1, 2023 and sales tax collections would not begin until at least January 2024 (halfway through FY 2024). Based on historical sales tax collection data, B&P adjusts calendar year collections 50% into the first fiscal year and 50% into the second fiscal year. Therefore, B&P estimates that this proposal will increase state revenues by $18,880,893 to $19,191,241 in FY 2024. BY FY 2028, this proposal may increase state revenues by $47,861,347 to $48,845,886. This proposal may also increase local revenues by $10,312,094 in FY 2024 and up to $26,246,523 by FY 2028. Table 3 shows the estimated revenue generated by fiscal year.

Table 3: Sales Tax Collections by Fiscal Year

Fund	FY 2024		FY 2025		FY 2026	
	All Medical Shift	No Medical Shift	All Medical Shift	No Medical Shift	All Medical Shift	No Medical Shift
MO Econ Recovery and Growth Fund	$22,401,741	$19,191,241	$47,174,698	$40,126,383	$51,917,128	$43,614,184
General Revenue	($1,284,200)	$0	($2,819,326)	$0	($3,321,177)	$0
Education	($428,067)	$0	($939,775)	$0	($1,107,059)	$0
Conservation	($53,508)	$0	($117,472)	$0	($138,382)	$0
Parks, soil, water	($42,807)	$0	($93,978)	$0	($110,706)	$0
Veterans' Health and Care Fund	($1,712,267)	$0	($3,759,101)	$0	($4,428,237)	$0
Total State Revenues	$18,880,893	$19,191,241	$39,445,046	$40,126,383	$42,811,566	$43,614,184
Local Revenue	$10,312,094	$10,312,094	$21,561,243	$21,561,243	$23,435,355	$23,435,355

Table 3: Sales Tax Collections by Fiscal Year (cont.)

Fund	FY 2027		FY 2028	
	All Medical Shift	No Medical Shift	All Medical Shift	No Medical Shift
MO Econ Recovery and Growth Fund	$56,659,558	$47,101,985	$59,030,772	$48,845,886
General Revenue	($3,823,029)	$0	($4,073,955)	$0
Education	($1,274,343)	$0	($1,357,985)	$0
Conservation	($159,293)	$0	($169,748)	$0
Parks, soil, water	($127,434)	$0	($135,798)	$0
Veterans' Health and Care Fund	($5,097,372)	$0	($5,431,940)	$0
Total State Revenues	$46,178,086	$47,101,985	$47,861,347	$48,845,886
Local Revenue	$25,309,467	$25,309,467	$26,246,523	$26,246,523

Article XIV Section 1.3(2)(h) requires that all medical marijuana employees, owners, officers, and other individuals affiliated with the business to undergo a fingerprint-based criminal background check. The removal of the license caps on medical marijuana facilities may increase the number of individuals needing these checks. Further, **Article XIV Section 2.4(10)** requires that all recreational marijuana employees, owners, officers, and other individuals affiliated with the business undergo a fingerprint-based criminal background check. The Missouri State Highway Patrol (MSHP) Criminal Justice Information Services (CJIS) Division processes all state and federal fingerprint background checks. The CJIS has the following fee structure for background checks:

State fee:	$20.00
Vendor Fee:	$8.50
FBI fee:	$13.25
Total fees:	$41.75

The state retains the $20 state fee and $2 of the FBI fee ($22 total retained by the state). All fees collected will be deposited in the MSHP Criminal Records System Fund. MSHP verified that over 90% of background checks are conducted using third party vendor, IDEMIA, who charges the applicant an $8.50 fee which is kept by IDEMIA. The applicant pays the full fee of $41.75 to the vendor and MSHP then collects the full state and FBI fees ($33.25) from the vendor each month. The FBI bills MSHP monthly, and MSHP pays the FBI their portion of the FBI fee out of the MSHP Criminal Records System Fund. B&P defers to MSHP for further discussion on this impact.

If a new crime is created or removed or there is an increase or decrease in class of crime, any portion of any associated penalty fees/fines that go to the state may impact TSR. **Article XIV, Section 2.6(4)** allows adults over age 21 to possess at any one time the following amounts of marijuana:

- up to eight ounces of dried unprocessed flower;
- up to 28 grams of concentrated resin or extract; and
- up to 4,000 milligrams of THC in cannabis-infused products.

Pursuant to Section 579.015, RSMo, a first time offense of possession of ten grams or less of marijuana is a Class D misdemeanor subject to a fine up to $500. Any subsequent offenses, as well as any offenses of possession of marijuana of more than ten grams but 35 grams or less, are Class A misdemeanors subject to a fine of up to $2,000 and up to one year in jail. It is unknown how many violations and associated fines would be reduced by passage of this amendment. Therefore, this proposal could decrease total state revenue by an unknown amount beginning January 1, 2023.

Article XIV, Section 2.7(3) permits local governments to require recreational marijuana businesses to obtain business licensure under local ordinances but prohibits any additional fee or special license specific to these types of businesses. **Article XIV, Section 2.7(4)** allows local governments to establish civil penalties for violation of an ordinance or regulation governing medical marijuana facilities so long as these penalties are not greater than those imposed on alcoholic beverage manufacturers or sellers. B&P notes that it would appear that subdivision 4 should reference recreational marijuana businesses rather than medical marijuana. These provisions may impact local revenues by an unknown amount.

Officials from the **Office of State Courts Administrator** indicated the initiative petition proposing to Amend Article XIV establishes and modifies provisions relating to the legalization of marijuana for adult use.

The average of all marijuana related charge codes from 2015 to 2019 for Circuit case types is 2,457 per year. The average of all marijuana related charge codes from 2015 to 2019 for Associate case types is 8,153. They are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this proposed legislation:

	Criminal Court Costs		
Felony Case Costs	**Amount of Cost**		**Disburse to State/County**
Basic Civil Legal Services Fund surcharge	$10.00		State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00		State of Missouri - General Revenue $36, County $9
County Fee	$75.00		County
Court Automation Fund Fee	$7.00		State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00		State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50		State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00		State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00		State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00		State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00		State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00		State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00		Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$5.00		State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00		County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00		Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00		State of Missouri - Spinal Cord Injury Fund
Total	$283.50		
Misdemeanor Case Costs			

Basic Civil Legal Services Fund surcharge	$8.00		State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00		$12 State of Missouri / $3 County
County Fee	$25.00		County
Court Automation Fund Fee	$7.00		State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50		State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00		State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00		State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00		State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00		State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00		State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00		Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$5.00		$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00		County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00		Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00		State of Missouri - Spinal Cord Injury Fund
Total	**$106.50**		
Municipal Case (Filed in Associate Division) Costs			
Clerk Fee	$15.00		$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00		State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50		State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00		State of Missouri - Peace Officer Standards & Training Fund

Sheriffs' Retirement Fund surcharge	$3.00		Sheriffs' Retirement Fund
Total	**$33.50**		
Criminal Costs Not Included Above			
Drug Testing by a State Lab	$150.00		State of Missouri
Drug Testing by a Private Lab	Actual Costs		County Reimbursement
Law Enforcement Arrest Costs:			
Highway Patrol			Amt. Approved by the Court
Local (County)			Amt. Approved by the Court
Municipal			Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts and to the specific funds.

They also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time they are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions

certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will reduce the number of illegal possession of a controlled substance cases in which State Public Defender provides legal representation. The exact fiscal impact of that reduction is unknown.

Officials from the **State Treasurer's office** indicated there is a tax and a variety of fees imposed in this petition. Once in operation, marijuana businesses have had difficulties obtaining and maintaining bank accounts due Federal law and regulations. Their office and the Department of Revenue have explored options to handle large amounts of cash from licensed marijuana businesses as the Department of Revenue may see many of these taxes paid in cash. Changes in security measures and collection points may be needed as the Department of Revenue, the Department of Health and Senior Services, and the Department of Labor and Industrial Relations do not currently receive large amounts of cash. The changes in this initiative petition may increase the potential amount of receipts in cash. They are unable to determine the fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following as a result of this petition:

Costs:
- ~$30,000 in Sheriff Road Patrol OT for DWIs
- ~$5,000 in extra Sheriff fuel use to patrol
- ~$35,000 annually in costs

Savings/Revenues:
- ~$25,000 in the 1/3rd of the 7.5% tax to be dedicated to legal assistance for criminal record expungements
- ~$150,000 in sales taxes
- ~$25,000 in property taxes
- ~$1,000 in liquor-equivalent licenses
- ~$5,000 in planning & zoning permits
- ~206,000 annually in savings/new revenues

Net annual savings of ~$171,000.

Officials from **Greene County** indicated there is anticipated costs to their county for this initiative petition per the following information concerning this initiative petition, https://static1.squarespace.com/static/5541a76ae4b0175cee8827d0/t/580684e5ff7c50adea98399e/1476822252561/Letter+to+CA+from+Denver+DA.jpgI provided by their County Prosecutor, Dan Patterson. There may also be sales tax attained for their county based on the authority given for taxation and funding to impose a retail sales tax. Since it is a may, there is no certainty to ascertain if any tax dollars attained will be collected, and if they are collected any data to suggest an amount of actual sales that will take place to base the estimation on.

To help better fully understand the fiscal impact would require a very detailed study to give the best opportunity to understand the impact to law enforcement, prosecutors and the circuit courts within the proposed changes of this initiative petition, which the linked letter demonstrates occurred in Colorado after similar legislation passed. In addition, it would also require a very reliable method of measurement to predict a dependable sales estimate of this product and the impact the sales would have on additional local sales tax receipts for a local entity. Unfortunately neither of these are currently feasible due to the short timeline given to respond.

County Prosecutor, Dan Patterson provided the following information:

DenverDA
Mitchell R. Morrissey, District Attorney - Second Judicial District
201 W. Colfax Avenue, Dept. 801, Denver, CO 80202
Bus. Phone: 720-913-900
Fax: 720-913-903

October 12, 2016

No on 64 Campaign and SAM Action

California voters are being told that they will see the crime rate go down if they vote to legalize marijuana commercially; this has not been the case in the state of Colorado or the city of Denver. Since the legalization of recreational marijuana in Colorado in 2013 traffic related marijuana deaths have increased 48%, marijuana related emergency room visits have increased 49%, and marijuana related calls to the poison center have increased 100%. According to the Colorado Bureau of Investigations in 2015 statewide homicides in Colorado rose 14.7 % over the previous year. Pueblo, Colorado had the highest homicide rate in the state with 11.1 killings per 100,000 residents. Aurora, Colorado's homicide rate more than doubled from 2014. Additionally more places in Colorado were robbed and more thefts occurred, especially cars, as 193,115 motor vehicles were reported stolen, up 27.7 % in 2015 from the previous year. In 2015, sexual assaults rose 10% in Colorado with Denver, Aurora, Lakewood, Westminster and Pueblo all reporting higher numbers as well.

In the city of Denver since the legalization of recreational marijuana the number of crimes in Denver has grown by about 44 %, according to annual figures the city reported to the National Incident Based Reporting System. In 2015 in Denver alone crime rose in every neighborhood in the city. The murder rate hit a decade high, 1059 more cars were broken into, there were 903 more auto thefts, 321 more aggravated assaults and 231 more homes were broken into compared to 2014.

California voters are also being told that legalizing recreational marijuana will free up law enforcement to work on other criminal activities. Again that has not been the case in Denver. Besides the overall increases in crime we have experience, the Denver police department is dealing with a 900% increase in the unlawful cultivation and manufacture of marihuana concentrate, and a 99% increase in the unlawful distribution of marijuana and marijuana concentrate. The quantity of illegal marijuana seized by the Denver police has increased 3,424% on average per case. The volume of marijuana seized per case has increased from an average of 162 pounds to 5724 pounds. In Denver unlawful public consumption of marijuana citations has increased over 300% per year since the legalization of recreational marijuana. The Denver police department is busier enforcing marijuana laws and investigating crimes directly related to marijuana, including murderers, robberies, and home invasions, than any other time in the history of the city.

Sincerely,

Mitchell R. Morrissey
Denver District Attorney

Officials from the **City of Kansas City** indicated this amendment may have a positive fiscal impact on their city, by increasing tax revenues.

Officials from **Metropolitan Community College** indicated there are too many unknowns to determine the fiscal impact for their college. There is potential for increased operational expenses due to policies and procedures that may need to be addressed and changed. Also a potential need for increased drug testing. However, future opportunities on the educational side may arise.

Officials from the **University of Missouri** indicated the University of Missouri Health Care has reviewed the proposed constitutional amendment and have determined that as written it there should be no additional expenses.

Officials from the **Missouri Veterans Commission** indicated the following:

Michael L. Parson
Governor

Paul Kirchhoff
Executive Director

MISSOURI VETERANS COMMISSION

205 Jefferson Street, P.O. Drawer 147, Jefferson City, MO 65102-0147
Telephone: (573) 751-3779 www.mvc.dps.mo.gov Fax: (573) 751-6836

September 7, 2021

The Honorable John R. Ashcroft
Secretary of State
600 W. Main Street
Jefferson City, MO 65101

Dear Secretary of State Ashcroft,

Initiative Petition 2022-063 (hereinafter, the Petition) will have a disastrous fiscal impact upon the Missouri Veterans Commission. Under the existing medical marijuana program (Article XIV of the Missouri Constitution), we anticipate receiving $6.8 million dollars in fiscal years 2022 through 2026 from the tax revenues generated from the retail sales of medical marijuana. The Petition makes some changes to that program which would adversely impact the Commission, but its most severe impact to the Commission is in the creation of a non-medical marijuana program (the proposed Article XIV, section 2 to the Missouri Constitution).

The medical marijuana program is predicated on medical need and the physician certification that marijuana is the appropriate treatment for that medical need. Conversely, the non-medical marijuana program has no requirement for medical need or for physician certification. Notwithstanding the assertion in the Petition that the non-medical marijuana program is not intended to supplant the medical marijuana program, we anticipate that is prescisely what will occur should the Petition become law. It is only common sense that those wishing to use marijuana products will forego the inconvenience of establishing medical need and obtaining a physician's certification and avail themselves of the non-medical program should one exist regardless of their reason for wanting to use marijuana products. Therefore, we anticipate a significant reduction in the tax revenues generated by the medical marijuana program, perhaps as high as a 90% reduction, should the Petition become law.

Moreover, given the significantly different distribution of tax revenues provided for under the non-medical marijuana program, we cannot anticipate tax revenues generated under the non-medical program to defray the reduction we would experience under the medical marijuana program. Specifically, the medical marijuana program establishes a 4% tax on all retail sales of medical marijuana and allocates to the Commission all of those proceeds minus 5% to the Department of Revenue and an amount to the Department of Health and Senior Services necessary to defray their costs in regulating the program. The Petition changes this arrangement to cap the amount which may be retained by the Department of Health and Senior Services at twenty percent. Further, the Petition proposes a significant change to paragraph 3(12) to dramtically expand the rights of patients to cultivate their own marijuana which is not subject to

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER
services provided on a nondiscriminatory basis

taxation. Therefore, should the Petition become law, we anticipate a significant decrease in tax revenues allocated to the Commission through the Veterans Health and Care Fund.

Conversely, the non-medical marijuana program establishes a 7 ½ % tax on all retail sales of non-medical marijuana and allocates those proceeds to the "Missouri Economic Recovery and Growth Fund" minus 2% for the Department of Revenue. One-third of the monies in the "Missouri Economic Recovery and Growth Fund" are available to private and state agencies, but for purposes in which the Commission does not engage. The remaining two-thirds of this fund is to be dedicated to Geneeral Revenue. Therefore, there is nothing in the language of the Petition which guarantees that the Commission would receive any tax revenues under the non-medical marijuana program. Under the language of this Petition the fiscal impact to the Commission could range from disastrous in the case of the Commission receiving very little medical marijuana tax revenues and none from the non-medical marijuana program, to speculative at best where the Commission receives very little medical marijuana tax revenues but does receive a disbursement from the "Missouri Economic Recovery and Growth Fund" as an appropriation from General Revenue.

In closing, Initiative Petition 2022-063 will adversely impact the ability of the Missouri Veterans Commission to serve the veterans of Missouri for the reasons set forth above. If I can be of any further assistance on this issue, please contact me at (573) 522-4224 at your convenience.

Sincerely,

Scotty L. Allen
General Counsel
Missouri Veterans Commission

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University, Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** and the **Metropolitan Police Department - City of St. Louis.**

Fiscal Note Summary

State governmental entities estimate initial costs of $4 million, annual costs of $7 million, and annual revenues ranging from $26 million to $125 million by 2025. Local governments are estimated to have annual costs of at least $35,000 and annual revenues ranging from $13 million to $21 million by 2025.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

AUG 31 2021
STATE AUDITORS OFFICE

August 31, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from David Roland regarding a proposed constitutional amendment to Article VIII, version 3 (2022-062)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by David Roland on August 30, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

22-062

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 AUG 30 PM 3:36
CHRIS KOSTER
SECRETARY OF STATE

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.						
2.						
3.						
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

NOTICE: The proposed amendment revises Article VIII of the Constitution by adopting five new Sections to be known as Article VIII, Sections 24, 25, 26, 27, and 28.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article VIII of the Constitution is revised by adopting five new Sections to be known as Article VIII, Sections 24, 25, 26, 27, and 28 to read as follows:

Section 24. 1. Every voting machine used to conduct an election in the State of Missouri shall be tested and certified as secure prior to each election in which the machine will be used. Such testing and certification shall meet all federal standards.
2. Every voting machine used to conduct an election in the State of Missouri shall produce an individual, permanent paper record for each vote cast, which shall be made available for inspection and verification by the voter at the time the vote is cast. Such individual, permanent paper record shall be preserved for use in any election audit.
3. The candidate or their designee shall have the right to be present whenever paper ballots or the permanent paper records produced by electronic voting machines are counted, audited, or placed in storage.

Section 25. 1. Beginning at the August 2024 primary election, and notwithstanding any other provision of law to the contrary, primary elections for all statewide offices, members of the Missouri General Assembly, members of the United States Congress, circuit and associate circuit judges who are not selected pursuant to Article V, Section 25(a) or 25(b) of the Missouri Constitution, and public offices within any political subdivision that are filled through partisan elections shall be open primaries where the four candidates for each office receiving the most votes advance to the general election.
2. Primary ballots for such offices shall meet the following criteria:
(1) All candidates for an office shall appear on a single ballot.
(2) Primary ballots shall include space for a write-in candidate for such offices.
3. In the primary election for all statewide offices, members of the Missouri General Assembly, members of the United States Congress, circuit and associate circuit judges who are not selected pursuant to Article V, Section 25(a) or 25(b) of the Missouri Constitution, and public offices within any political subdivision that are filled through partisan elections, a qualified voter shall be permitted to cast a vote for any candidate for whom that voter is otherwise eligible to vote. A qualified voter shall only vote for one candidate for each office.
4. The four candidates for each office receiving the most votes in the primary election shall advance to the general election for that office. Only those candidates shall appear on the general election ballot.
5. If two or more candidates receive an equal number of votes for the same office, such that there is a tie for fourth place, such candidates or their designees shall have the right to draw lots to determine whose name shall appear on the general election ballot. If a candidate declines to participate, the election authority may draw lots on their behalf.

Section 26. 1. Beginning August 1, 2024, and notwithstanding any other provision of law to the contrary, a special election shall be called to fill any vacancy in a statewide office, office of member of the Missouri General Assembly, office of member of the United States Congress, office of circuit judge not selected pursuant to Article V, Section 25(a) or 25(b), office of associate circuit judge not selected pursuant to Article V, Section 25(a) or 25(b) of the Missouri Constitution, and public offices within any political subdivision that are filled through partisan elections.
2. A primary election for a special election to fill a vacancy in any such office shall be conducted pursuant to the process described in Section 25 this Article.

Section 27. The Secretary of State shall issue rules and regulations necessary to implement Sections 24 to 26 of this Article. No rule or portion of a rule promulgated under the authority of such Sections shall become effective unless it has been promulgated pursuant to the requirements provided by law.

Section 28. If any provision of Sections 24, 25, 26, or 27 or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-062)

Subject

Initiative petition from David Roland regarding a proposed constitutional amendment to Article VIII. (Received August 31, 2021)

Date

September 20, 2021

Description

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Benjamin D. Singer, Executive Director, Show Me Integrity provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article VIII, version 3, with their assumption that the initiative petition only relates to general and primary elections.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department, Director's Office.

Officials from the **Department of Social Services** indicated this has no fiscal impact on their department.

Officials from the **Governor's office** indicated this proposal addresses numerous election topics including testing/certification of election machines and alternative voting systems. This proposal should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition should have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal addresses numerous election topics including testing/certification of election machines and alternative voting systems. This proposal should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this ballot measure would alter the method of elections for statewide offices, Congressional seats, members of the General Assembly, circuit judges, and other public officials elected at the local level.

Under the current model, each party runs candidates on its own ticket, with the top vote-getter from each party advancing to the general election, joined by any independent or write-in candidates. The proposed measure would instead have candidates of all parties as well as write-ins (independent candidates are not addressed) appear on one primary ticket, with the four highest vote-getters advancing to the general election.

It is anticipated that if an open primary system is put in place, local election authorities could expect some election cost savings due to the reduced number of ballot styles (though these savings could be lessened or overshadowed by an increased cost for printing larger individual ballots). Since the state shares proportional costs for primary elections, any costs or savings by the local election authorities (LEAs) will be shared to a lesser degree by the state in odd-numbered fiscal years. However, due to the scope of the changes that would be involved in instituting this system, the amount of costs or savings to the state is considered to be unknown at this time.

Each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following costs as a result of this initiative petition:

- ~$20,000 **onetime** software expense to update both primary and general election ballots as well as produce the paper record for each vote in Section 24.2
- ~$25,000 each primary election to print each paper record under 24.2
- ~$25,000 each general election to print each paper record under 24.2
- ~$5,000 each primary election for poll workers to assist with voter inspection of records under 24.2

- ~$10,000 each general election for poll workers to assist with voter inspection of records under 24.2
- ~5,000 in **onetime** training costs for workers

In sum, ~$25,000 in onetime costs and ~$65,000 in recurring costs every even election year (both primary and general).

Officials from **Greene County** indicated there will be costs to their county in the provisions of Section 26.

Section 26 – Sample Vacancy Elections for Potential Cost Estimate:

State Representative Vacancy Election –
16 Polling Locations for House District 135 - $70,000

Countywide Vacancy Election –
80 polling locations - $357,141

County Commission District Election –
40 polling locations – $260,062

Each of the above estimates are independent costs of each other and therefore cannot be added together as one figure for the estimate.

Officials from the **City of Kansas City** indicated this petition would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **St. Louis County Board of Elections** indicated this would have no impact on their Board of Elections.

Officials from the **Board of Election Commissioners City of St. Louis** indicated this petition would have no fiscal impact on their local government entity.

Officials from the **Kansas City Board of Election Commissioners** provided the following information and indicated numbers 4) and 6) will apply to every election from here on out and numbers 1), 2), 3), and 5) are a one-time cost, only.

1) Petitions must be checked. Staff overtime and additional temporary staff expenses may be incurred at an estimated cost of $15,000 to $40,000.

2) An election in the Kansas City portion of Jackson County costs roughly $625,000. This cost will be prorated among all the entities that participate in that election, based on voter registration.

3) To supplement the Secretary of State's public education, public notices would need to be sent to all voters or published in newspapers at an estimated cost of $25,000 to $100,000 to provide detailed information of the new process.

4) Election day judge and staff training would be estimated at $35,000.

5) If this proposed amendment becomes law, then their computers used for tabulation would have to be sent back to the vendor and the hardware wiped clean and the new software would be installed for $15,000. The software for the ballot marking devices must be upgraded and installed by the vendor. Cost is estimated between $25,000 to $50,000.

6) Additional security required for election night and days after the elections thru certification due to the unrest that will be caused by the lack of understanding of new voting procedures. Estimated cost $25,000.

Officials from the **Platte County Board of Elections** indicated they expect no fiscal impact from this petition.

Officials from the **Jackson County Election Board** indicated their software can handle programming for the attached language.

They estimate a cost of $50,000 for mailings to the voters for voter education and a possible additional cost if the ballot becomes a three page ballot which would necessitate extra judge training $20,000 and an additional $63,000 for ballot printing.

Benjamin D. Singer, Executive Director, Show Me Integrity provided the following information:

July 23, 2021

State Auditor Nicole Galloway
301 West High Street, Room 880
Jefferson City, MO 65102

To Auditor Galloway:

I write regarding **fiscal note analysis for initiative petitions 2022-049 and 2022-050** on behalf of Show Me Integrity, Missouri's good government and political reform organization. Our board includes Republicans, Democrats, and independents all committed to a more effective, ethical government of, by, and for the people.

We are Missouri's leading authority on modern voting methods. That is because, **from 2019 to 2021, we led a coalition through Missouri's first and only successful policymaking process, campaign, and implementation of a modern voting system called "approval voting,"** which we did in the City of St. Louis. Previously, St. Louis often elected leaders with less than 40% of the vote in the party primary, and no competitive general election. This left politicians with no mandate to govern, giving special interests greater ability to wield undue influence in city politics.

We explored both approval voting and ranked-choice voting. We consulted closely for months with local election authorities and national experts, including the Ranked Choice Voting Resource Center. After our analysis, we concluded that the City of St. Louis election machines were not compatible with ranked-choice voting at the time. However, as we explored other voting modernization campaigns throughout our state, we discovered that **almost all Missouri election authorities—107 of 116—use election machines that ARE compatible with ranked-choice voting (RCV)**. The only counties that do NOT have RCV-compatible equipment are as follows: City of St. Louis; Henry; Moniteau; Phelps; Mississippi; St. Clair; Sullivan; and Worth.

Based on our estimates, we believe the cost of implementing these two petitions will range from $0 to approximately $2,265,000 (453 machines). The range depends on various appropriations bills to upgrade old machines across the remaining 9 counties—some or all of which may move forward regardless of these two initiative petitions.

Please do not hesitate to contact us if you have any questions.

For our Republic,

Benjamin D. Singer, Executive Director
Show Me Integrity | (314) 239-1308
Benjamin@ShowMeIntegrity.org

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College,** and the **Clay County Board of Election Commissioners.**

Fiscal Note Summary

State and local governmental entities estimate no savings, one-time costs of at least $140,000, and ongoing costs of at least $90,000 each primary election, $95,000 each general election, and $60,000 for all other elections. There could also be additional costs for local government vacancy elections.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
AUG 31 2021
STATE AUDITOR'S OFFICE

August 31, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from David Roland regarding a proposed constitutional amendment to Article VIII, version 2 (2022-061)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by David Roland on August 30, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

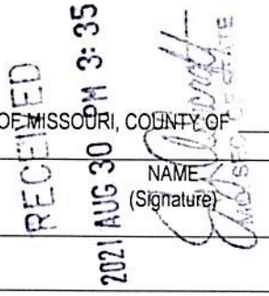
22-061

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]



CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.						
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

NOTICE: The proposed amendment revises Article VIII of the Constitution by adopting six new Sections to be known as Article VIII, Sections 24, 25, 26, 27, 28, and 29.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article VIII of the Constitution is revised by adopting six new Sections to be known as Article VIII, Sections 24, 25, 26, 27, 28, and 29 to read as follows:

Section 24. 1. Every voting machine used to conduct an election in the State of Missouri shall be tested and certified as secure prior to each election in which the machine will be used. Such testing and certification shall meet all federal standards.
2. Every voting machine used to conduct an election in the State of Missouri shall produce an individual, permanent paper record for each vote cast, which shall be made available for inspection and verification by the voter at the time the vote is cast. Such individual, permanent paper record shall be preserved for use in any election audit.
3. The candidate or their designee shall have the right to be present whenever paper ballots or the permanent paper records produced by electronic voting machines are counted, audited, or placed in storage.

Section 25. 1. Beginning at the August 2024 primary election, and notwithstanding any other provision of law to the contrary, primary elections for all statewide offices, members of the Missouri General Assembly, members of the United States Congress, circuit and associate circuit judges who are not selected pursuant to Article V, Section 25(a) or 25(b) of the Missouri Constitution, and public offices within any political subdivision that are filled through partisan elections shall be open primaries where the four candidates for each office receiving the most votes advance to the general election.
2. Primary ballots for such offices shall meet the following criteria:
(1) All candidates for an office shall appear on a single ballot.
(2) Primary ballots shall include space for a write-in candidate for such offices.
3. In the primary election for all statewide offices, members of the Missouri General Assembly, members of the United States Congress, circuit and associate circuit judges who are not selected pursuant to Article V, Section 25(a) or 25(b) of the Missouri Constitution, and public offices within any political subdivision that are filled through partisan elections, a qualified voter shall be permitted to cast a vote for any candidate for whom that voter is otherwise eligible to vote. A qualified voter shall only vote for one candidate for each office.
4. The four candidates for each office receiving the most votes in the primary election shall advance to the general election for that office. Only those candidates shall appear on the general election ballot.
5. If two or more candidates receive an equal number of votes for the same office, such that there is a tie for fourth place, such candidates or their designees shall have the right to draw lots to determine whose name shall appear on the general election ballot. If a candidate declines to participate, the election authority shall draw lots on their behalf.

Section 26. 1. For the purposes of this section, the following terms mean:
(1) "Active Candidate", a candidate who has not been eliminated during an instant runoff tabulation.
(2) "Overvote", a vote in which the qualified voter has indicated a preference for more than one candidate at the same placement order.
(3) "Order" or "Placement Order", the number a qualified voter assigns to a candidate indicating that voter's preference, with 1 being the highest placement order and 4 being the lowest placement order.
2. Beginning at the November 2024 general election, and notwithstanding any other provision of law to the contrary, general elections for all statewide offices, members of the Missouri General Assembly, members of the United States Congress, circuit and associate circuit judges who are not selected pursuant to Article V, Section 25(a) or 25(b) of the Missouri Constitution, and public offices within any political subdivision that are filled through partisan elections shall be instant runoff elections in which a qualified voter may indicate their preferred candidate order on the ballot.
3. In a general election conducted under this section, each ballot shall count as one vote for the highest-ordered, Active Candidate on that ballot.
4. If, after the initial tabulation, an Active Candidate receives a majority of the votes cast, that candidate is elected and tabulation is complete.
5. If, after the initial tabulation, an Active Candidate has not received a majority of the highest-ordered votes cast, votes shall be tabulated as follows:
(1) The candidate receiving the fewest number of votes shall be eliminated.
(2) For each ballot cast for an eliminated candidate, the official conducting the tabulation shall determine the highest-ordered, Active Candidate on the ballot. The vote cast on that ballot shall be added to the total number of votes received by that Active Candidate.
(3) Votes shall be tabulated pursuant to subdivisions (1) and (2) of this subsection until an Active Candidate receives the majority of the remaining votes.
6. If a ballot has a placement order that does not contain any candidate, and there are no Active Candidates at a higher placement order, the ballot shall count as a vote for the highest-ordered Active Candidate listed after that placement order, if any.
7. Ballots shall not be included in the tabulation process in subsection 5 only if:
(1) The ballot does not include an Active Candidate at any placement order; or
(2) The ballot contains an Overvote that includes the highest-ordered, Active Candidate at any point during the tabulation process.
8. If two or more candidates are tied with an equal and lowest number of votes, and the tabulation in subsection 5 cannot continue until the candidate with the lowest number of votes is eliminated, the candidate to be eliminated shall be determined by such candidates or their designees drawing lots to determine who shall be eliminated. Should a candidate decline to participate, the election authority shall draw lots on their behalf.
9. Ballots shall be laid out to allow voters to indicate their preferred candidate order. The ballot shall be simple and easy to understand, consistent with best practices.

10. Instructions on the general election ballot shall include the following statement: "You may mark up to four choices in order of preference. Marking a second choice cannot help defeat your first choice. Marking a subsequent choice cannot help defeat your higher-ordered choices."
11. Beginning at least one hundred twenty days before the first election utilizing the instant runoff system, the Secretary of State and local election authorities shall conduct a voter education campaign to familiarize voters with the instant runoff voting system.
12. Notwithstanding any other provision of law to the contrary, the aggregated vote totals from the initial tabulation shall be used, as may be required by any other law, for the purposes of identifying the two major political parties.

Section 27. 1. Beginning August 1, 2024, and notwithstanding any other provision of law to the contrary, a special election shall be called to fill any vacancy in a statewide office, office of member of the Missouri General Assembly, office of member of the United States Congress, office of circuit judge` not selected pursuant to Article V, Section 25(a) or 25(b), office of associate circuit judge not selected pursuant to Article V, Section 25(a) or 25(b) of the Missouri Constitution, and public offices within any political subdivision that are filled through partisan elections.
2. A special election to fill a vacancy in any such office shall be conducted pursuant to the primary and general election processes described in Sections 25 and 26 of this Article.

Section 28. The Secretary of State shall issue rules and regulations necessary to implement Sections 24 to 27 of this Article. No rule or portion of a rule promulgated under the authority of such Sections shall become effective unless it has been promulgated pursuant to the requirements provided by law.

Section 29. If any provision of Sections 24, 25, 26, 27, or 28 or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-061)

Subject

Initiative petition from David Roland regarding a proposed constitutional amendment to Article VIII. (Received August 31, 2021)

Date

September 20, 2021

Description

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Benjamin D. Singer, Executive Director, Show Me Integrity provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article VIII, version 2, with their assumption that the initiative petition only relates to general and primary elections.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department, Director's Office.

Officials from the **Department of Social Services** indicated this has no fiscal impact on their department.

Officials from the **Governor's office** indicated this proposal addresses numerous election topics including testing/certification of election machines and alternative voting systems. This proposal should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition should have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal addresses numerous election topics including testing/certification of election machines and alternative voting systems. This proposal does not carry a financial impact for their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this ballot measure would alter the method of elections for statewide offices, Congressional seats, members of the General Assembly, circuit judges, and other public officials elected at the local level.

Under the current model, each party runs candidates on its own ticket, with the top vote-getter from each party advancing to the general election, joined by any independent or write-in candidates. The proposed measure would instead have candidates of all parties as well as write-ins (independent candidates are not addressed) appear on one primary ticket, with the four highest vote-getters advancing to the general election. Such general election would then be conducted using ranked-choice voting.

There are four potential areas of expense which could be incurred in implementing this measure: ballot production costs, the required public education campaign, reprogramming of the state election management system, and replacement of voting machines. The state may be required to pay any or all of these costs under Article X, Section 21 of the Missouri Constitution.

It is anticipated that if an open primary system is put in place, local election authorities could expect some election cost savings due to the reduced number of ballot styles (though these savings could be lessened or overshadowed by an increased cost for printing larger individual ballots). Since the state shares proportional costs for primary elections, any costs

or savings by the local election authorities (LEAs) will be shared to a lesser degree by the state in odd-numbered fiscal years. However, due to the scope of the changes that would be involved in instituting this system, the amount of costs or savings to the state is considered to be unknown at this time.

This measure would require their office to conduct a voter education campaign to familiarize voters with the instant runoff voting system and ranked-choice ballots. The precise cost of such a campaign would vary depending on strategic decisions and appropriation by the General Assembly. A statewide educational campaign is estimated to reach or exceed $2,000,000 (one-time cost) beginning in fiscal year (FY) 2024.

Additionally, the Missouri Centralized Voter Registration program (MCVR) would need to be modified to accept ranked-choice vote totals. The total numbers of each different ballot ranking combination would need to be tabulated in MCVR from the LEAs before the instant runoff process could take place, especially in the case of statewide races. This would require programming resources to be devoted beyond those covered under the normal maintenance and upkeep contracts. Labor costs to program this modification are estimated by the vendor at $46,000, to be executed in FY 2023 or FY 2024 in preparation for the time when ranked-choice voting begins in November 2024.

Finally, in order to properly handle ranked-choice ballots, all voting equipment statewide must either be updated with code which allows ranked-choice voting or be replaced with ranked-choice-compatible machines. Since reprogramming can reasonably be considered a lesser cost than full replacement, they present the replacement cost as a maximum for this potential expense. The latest voting systems survey, conducted in 2020, found 5,735 pieces of election equipment in service statewide. At an average replacement cost of $5,000 per machine, this could result in a cost of up to $28,675,000 in FY 2023 or FY 2024.

Each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions

certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following costs as a result of this initiative petition:

- ~$20,000 **onetime** software expense to update both primary and general election ballots as well as produce the paper record for each vote in Section 24.2
- ~$25,000 each primary election to print each paper record under 24.2
- ~$25,000 each general election to print each paper record under 24.2
- ~$5,000 each primary election for poll workers to assist with voter inspection of records under 24.2
- ~$10,000 each general election for poll workers to assist with voter inspection of records under 24.2
- ~100,000 for **onetime** software upgrades to fulfill the instant runoff tabulation provisions of Section 25
- ~5,000 in **onetime** training costs for workers
- ~$10,000 in **onetime** voter education costs under Section 25.11

In sum, ~$135,000 in onetime costs and ~$65,000 in recurring costs every even election year (both primary and general).

Officials from **Greene County** indicated there will be costs to their county in the provisions of Section 26 and Section 27.

Section 26 - Instant Runoff and Voter Education Cost Estimate:

Instant Runoff - $15,000 - $45,000

- The estimated figure is for labor costs for an election with approximately 10,000 ballots to be processed in the variations within this IP.
- If hand tabulation would be required, an example to cite is New York City, where it took 12 hours to hand tabulate between 5,000 - 10,000 after the initial tabulation determined no candidate had greater than 50% of the voters.
- If software and support can be purchased to run an algorithm to determine the winner of the contests where an instant runoff is required, which based on the size of Greene County would be recommended if statute allowed, it would be a one-time cost. They are seeking that estimated price from their election equipment vendor, but do not have it at this time.

Mail Two Educational Pieces to Registered Voter Households -	$65,000
Radio and Television Education Messaging -	$15,000
Estimate Total for Mail and Radio Education: -	**$80,000**

Section 27 – Sample Vacancy Elections for Potential Cost Estimate:

State Representative Vacancy Election – 16 Polling Locations for House District 135 -	$70,000
Countywide Vacancy Election – 80 polling locations -	$357,141
County Commission District Election – 40 polling locations -	$260,062

Each of the above estimates are independent costs of each other and therefore cannot be added together as one figure for the estimate.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **St. Louis County Board of Elections** indicated they estimate this would have a one-time cost of $100,000 for a voter education campaign.

Officials from the **Board of Election Commissioners City of St. Louis** indicated this petition would have no fiscal impact on their local government entity.

Officials from the **Kansas City Board of Election Commissioners** provided the following information and indicated numbers 4) and 6) will apply to every election from here on out and numbers 1), 2), 3), and 5) are a one-time cost only:

1) Petitions must be checked. Staff overtime and additional temporary staff expenses may be incurred at an estimated cost of $15,000 to $40,000.

2) An election in the Kansas City portion of Jackson County costs roughly $625,000. This cost will be prorated among all the entities that participate in that election, based on voter registration.

3) To supplement the Secretary of State's public education, public notices would need to be sent to all voters or published in newspapers at an estimated cost of $25,000 to $100,000 to provide detailed information of the new process.

4) Election day judge and staff training would be estimated at $35,000.

5) If this proposed amendment becomes law, then their computers used for tabulation would have to be sent back to the vendor and the hardware wiped clean and the new software would be installed for $15,000. The software for the ballot marking devices must be upgraded and installed by the vendor. Cost is estimated between $25,000 to $50,000.

6) Additional security required for election night and days after the elections through certification due to the unrest that will be caused by the lack of understanding of new voting procedures. Estimated cost $25,000.

Officials from the **Platte County Board of Elections** indicated they expect no fiscal impact from this petition.

Officials from the **Jackson County Election Board** indicated their election equipment can conduct rank choice voting. No software update would be required. The cost associated with this petition would be solely related to voter education. Ranked Choice Voting (RCV) is complicated to understand, and the average voter will not understand the process. They assume that if implemented the cost for voter education would be $250,000 with mailings and media buys.

Benjamin D. Singer, Executive Director, Show Me Integrity provided the following information:

July 23, 2021

State Auditor Nicole Galloway
301 West High Street, Room 880
Jefferson City, MO 65102

To Auditor Galloway:

I write regarding **fiscal note analysis for initiative petitions 2022-049 and 2022-050** on behalf of Show Me Integrity, Missouri's good government and political reform organization. Our board includes Republicans, Democrats, and independents all committed to a more effective, ethical government of, by, and for the people.

We are Missouri's leading authority on modern voting methods. That is because, **from 2019 to 2021, we led a coalition through Missouri's first and only successful policymaking process, campaign, and implementation of a modern voting system called "approval voting,"** which we did in the City of St. Louis. Previously, St. Louis often elected leaders with less than 40% of the vote in the party primary, and no competitive general election. This left politicians with no mandate to govern, giving special interests greater ability to wield undue influence in city politics.

We explored both approval voting and ranked-choice voting. We consulted closely for months with local election authorities and national experts, including the Ranked Choice Voting Resource Center. After our analysis, we concluded that the City of St. Louis election machines were not compatible with ranked-choice voting at the time. However, as we explored other voting modernization campaigns throughout our state, we discovered that **almost all Missouri election authorities—107 of 116—use election machines that ARE compatible with ranked-choice voting (RCV)**. The only counties that do NOT have RCV-compatible equipment are as follows: City of St. Louis; Henry; Moniteau; Phelps; Mississippi; St. Clair; Sullivan; and Worth.

Based on our estimates, we believe the cost of implementing these two petitions will range from $0 to approximately $2,265,000 (453 machines). The range depends on various appropriations bills to upgrade old machines across the remaining 9 counties—some or all of which may move forward regardless of these two initiative petitions.

Please do not hesitate to contact us if you have any questions.

For our Republic,

Benjamin D. Singer, Executive Director
Show Me Integrity | (314) 239-1308
Benjamin@ShowMeIntegrity.org

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College,** and the **Clay County Board of Election Commissioners.**

Fiscal Note Summary

State and local governmental entities estimate no savings, one-time costs of $2.2 million to at least $4.6 million, and ongoing costs of at least $90,000 each primary election, $110,000 each general election, $75,000 each local government vacancy election, and $60,000 for all other elections.

RECEIVED
AUG 31 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 31, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from David Roland regarding a proposed constitutional amendment to Article VIII, version 1 (2022-060)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by David Roland on August 30, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

22-060

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 AUG 30 PM 3:34
John Ashcroft
Secretary of State

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

NOTICE: The proposed amendment revises Article VIII of the Constitution by adopting five new Sections to be known as Article VIII, Sections 24, 25, 26, 27, and 28.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article VIII of the Constitution is revised by adopting five new Sections to be known as Article VIII, Sections 24, 25, 26, 27, and 28 to read as follows:

Section 24. 1. Every voting machine used to conduct an election in the State of Missouri shall be tested and certified as secure prior to each election in which the machine will be used. Such testing and certification shall meet all federal standards.
2. Every voting machine used to conduct an election in the State of Missouri shall produce an individual, permanent paper record for each vote cast, which shall be made available for inspection and verification by the voter at the time the vote is cast. Such individual, permanent paper record shall be preserved for use in any election audit.
3. The candidate or their designee shall have the right to be present whenever paper ballots or the permanent paper records produced by electronic voting machines are counted, audited, or placed in storage.

Section 25. 1. For the purposes of this section, the following terms mean:
(1) "Active Candidate", a candidate who has not been eliminated during an instant runoff tabulation.
(2) "Overvote", a vote in which the qualified voter has indicated a preference for more than one candidate at the same placement order.
(3) "Order" or "Placement Order", the number a qualified voter assigns to a candidate indicating that voter's preference, with 1 being the highest placement order and 4 being the lowest placement order.
2. Beginning at the November 2024 general election, and notwithstanding any other provision of law to the contrary, general elections for all statewide offices, members of the Missouri General Assembly, members of the United States Congress, circuit and associate circuit judges who are not selected pursuant to Article V, Section 25(a) or 25(b) of the Missouri Constitution, and public offices within any political subdivision that are filled through partisan elections shall be instant runoff elections in which a qualified voter may indicate their preferred candidate order on the ballot.
3. In a general election conducted under this section, each ballot shall count as one vote for the highest-ordered, Active Candidate on that ballot.
4. If, after the initial tabulation, an Active Candidate receives a majority of the votes cast, that candidate is elected and tabulation is complete.
5. If, after the initial tabulation, an Active Candidate has not received a majority of the highest-ordered votes cast, votes shall be tabulated as follows:
(1) The candidate receiving the fewest number of votes shall be eliminated.
(2) For each ballot cast for an eliminated candidate, the official conducting the tabulation shall determine the highest-ordered, Active Candidate on the ballot. The vote cast on that ballot shall be added to the total number of votes received by that Active Candidate.
(3) Votes shall be tabulated pursuant to subdivisions (1) and (2) of this subsection until an Active Candidate receives the majority of the remaining votes.
6. If a ballot has a placement order that does not contain any candidate, and there are no Active Candidates at a higher placement order, the ballot shall count as a vote for the highest-ordered Active Candidate listed after that placement order, if any.
7. Ballots shall not be included in the tabulation process in subsection 5 only if:
(1) The ballot does not include an Active Candidate at any placement order; or
(2) The ballot contains an Overvote that includes the highest-ordered, Active Candidate at any point during the tabulation process.
8. If two or more candidates are tied with an equal and lowest number of votes, and the tabulation in subsection 5 cannot continue until the candidate with the lowest number of votes is eliminated, the candidate to be eliminated shall be determined by such candidates or their designees drawing lots to determine who shall be eliminated. Should a candidate decline to participate, the election authority shall draw lots on their behalf.
9. Ballots shall be laid out to allow voters to indicate their preferred candidate order. The ballot shall be simple and easy to understand, consistent with best practices.
10. Instructions on the general election ballot shall include the following statement: "You may mark up to four choices in order of preference. Marking a second choice cannot help defeat your first choice. Marking a subsequent choice cannot help defeat your higher-ordered choices."
11. Beginning at least one hundred twenty days before the first election utilizing the instant runoff system, the Secretary of State and local election authorities shall conduct a voter education campaign to familiarize voters with the instant runoff voting system.
12. Notwithstanding any other provision of law to the contrary, the aggregated vote totals from the initial tabulation shall be used, as may be required by any other law, for the purposes of identifying the two major political parties.

Section 26. 1. Beginning August 1, 2024, and notwithstanding any other provision of law to the contrary, a special election shall be called to fill any vacancy in a statewide office, office of member of the Missouri General Assembly, office of member of the United States Congress, office of circuit judge not selected pursuant to Article V, Section 25(a) or 25(b), office of associate circuit judge not selected pursuant to Article V, Section 25(a) or 25(b) of the Missouri Constitution, and public offices within any political subdivision that are filled through partisan elections.
2. A special election to fill a vacancy in any such office shall be conducted pursuant to the general election process described in Section 25 of this Article.

Section 27. The Secretary of State shall issue rules and regulations necessary to implement Sections 24 to 26 of this Article. No rule or portion of a rule promulgated under the authority of such Sections shall become effective unless it has been promulgated pursuant to the requirements provided by law.

Section 28. If any provision of Sections 24, 25, 26, or 27 or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-060)

Subject

Initiative petition from David Roland regarding a proposed constitutional amendment to Article VIII. (Received August 31, 2021)

Date

September 20, 2021

Description

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Benjamin D. Singer, Executive Director, Show Me Integrity provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article VIII, version 1, with their assumption that the initiative petition only relates to general and primary elections.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department, Director's Office.

Officials from the **Department of Social Services** indicated this has no fiscal impact on their department.

Officials from the **Governor's office** indicated this proposal addresses numerous election topics including testing/certification of election machines and alternative voting systems. This proposal should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition should have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal addresses numerous election topics including testing/certification of election machines and alternative voting systems. The proposal does not carry a financial impact for their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this ballot measure would alter the method of elections for statewide offices, Congressional seats, and members of the General Assembly, circuit judges, and other public officials elected at the local level. Beginning with the November 2024 general election, officials would be selected using ranked-choice voting.

There are three potential areas of expense which could be incurred in implementing this measure: the required public education campaign, reprogramming of the state election management system, and replacement of voting machines. The state may be required to pay any or all of these costs under Article X, Section 21 of the Missouri Constitution.

This measure would require their office to conduct a voter education campaign to familiarize voters with the instant runoff voting system and ranked-choice ballots. The precise cost of such a campaign would vary depending on strategic decisions and appropriation by the General Assembly. A statewide educational campaign is estimated to reach or exceed $2,000,000 (one-time cost) beginning in fiscal year (FY) 2024.

Additionally, the Missouri Centralized Voter Registration program (MCVR) would need to be modified to accept ranked-choice vote totals. The total numbers of each different ballot ranking combination would need to be tabulated in MCVR from the LEAs before the instant runoff process could take place, especially in the case of statewide races. This would require programming resources to be devoted beyond those covered under the

normal maintenance and upkeep contracts. Labor costs to program this modification are estimated by the vendor at $46,000, to be executed in FY 2023 or FY 2024 in preparation for the time when ranked-choice voting begins in November 2024.

Finally, in order to properly handle ranked-choice ballots, all voting equipment statewide must either be updated with code which allows ranked-choice voting or be replaced with ranked-choice-compatible machines. Since reprogramming can reasonably be considered a lesser cost than full replacement, they present the replacement cost as a maximum for this potential expense. The latest voting systems survey, conducted in 2020, found 5,735 pieces of election equipment in service statewide. At an average replacement cost of $5,000 per machine, this could result in a cost of up to $28,675,000 in FY 2023 or FY 2024.

Each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following costs as a result of this initiative petition:

- ~$20,000 **onetime** software expense to update both primary and general election ballots as well as produce the paper record for each vote in Section 24.2
- ~$25,000 each primary election to print each paper record under 24.2
- ~$25,000 each general election to print each paper record under 24.2
- ~$5,000 each primary election for poll workers to assist with voter inspection of records under 24.2
- ~$10,000 each general election for poll workers to assist with voter inspection of records under 24.2
- ~100,000 for **onetime** software upgrades to fulfill the instant runoff tabulation provisions of Section 25
- ~5,000 in **onetime** training costs for workers
- ~$10,000 in **onetime** voter education costs under Section 25.11

In sum, ~$135,000 in onetime costs and ~$65,000 in recurring costs every even election year (both primary and general).

Officials from **Greene County** indicated there will be costs to their county in the provisions of Section 25 and Section 26.

Section 25 - Instant Runoff and Voter Education Cost Estimate:

Instant Runoff - $15,000 - $45,000

- The estimated figure is for labor costs for an election with approximately 10,000 ballots to be processed in the variations within this IP.
- If hand tabulation would be required, an example to cite is New York City, where it took 12 hours to hand tabulate between 5,000 - 10,000 after the initial tabulation determined no candidate had greater than 50% of the voters.
- If software and support can be purchased to run an algorithm to determine the winner of the contests where an instant runoff is required, which based on the size of Greene County would be recommended if statute allowed, it would be a one-time cost. They are seeking that estimated price from their election equipment vendor, but do not have it at this time.

Mail Two Educational Pieces to Registered Voter Households - $65,000

Radio and Television Education Messaging - $15,000

Estimate Total for Mail and Radio Education: - $80,000

Section 26 – Sample Vacancy Elections for Potential Cost Estimate:

State Representative Vacancy Election –	
16 Polling Locations for House District 135 -	$70,000
Countywide Vacancy Election –	
80 polling locations -	$357,141
County Commission District Election –	
40 polling locations -	$260,062

Each of the above estimates are independent costs of each other and therefore cannot be added together as one figure for the estimate.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **St. Louis County Board of Elections** indicated they estimate this would have a one-time cost of $100,000 for a voter education campaign.

Officials from the **Board of Election Commissioners City of St. Louis** indicated this petition would have no fiscal impact on their local government entity.

Officials from the **Kansas City Board of Election Commissioners** provided the following information and indicated numbers 4) and 6) will apply to every election from here on out and numbers 1), 2), 3), and 5) are a one-time cost only:

1) Petitions must be checked. Staff overtime and additional temporary staff expenses may be incurred at an estimated cost of $15,000 to $40,000.

2) An election in the Kansas City portion of Jackson County costs roughly $625,000. This cost will be prorated among all the entities that participate in that election, based on voter registration.

3) To supplement the Secretary of State's public education, public notices would need to be sent to all voters or published in newspapers at an estimated cost of $25,000 to $100,000 to provide detailed information of the new process.

4) Election day judge and staff training would be estimated at $35,000.

5) If this proposed amendment becomes law, then their computers used for tabulation would have to be sent back to the vendor and the hardware wiped clean and the new software would be installed for $15,000. The software for the ballot marking devices must be upgraded and installed by the vendor. Cost is estimated between $25,000 to $50,000.

6) Additional security required for election night and days after the elections through certification due to the unrest that will be caused by the lack of understanding of new voting procedures. Estimated cost $25,000.

Officials from the **Platte County Board of Elections** indicated they expect no fiscal impact from this petition.

Officials from the **Jackson County Election Board** indicated their election equipment can conduct rank choice voting. No software update would be required. The cost associated with this petition would be solely related to voter education. Ranked Choice Voting (RCV) is complicated to understand, and the average voter will not understand the process. They assume that if implemented the cost for voter education would be $250,000 with mailings and media buys.

Benjamin D. Singer, Executive Director, Show Me Integrity provided the following information:

July 23, 2021

State Auditor Nicole Galloway
301 West High Street, Room 880
Jefferson City, MO 65102

To Auditor Galloway:

I write regarding **fiscal note analysis for initiative petitions 2022-049 and 2022-050** on behalf of Show Me Integrity, Missouri's good government and political reform organization. Our board includes Republicans, Democrats, and independents all committed to a more effective, ethical government of, by, and for the people.

We are Missouri's leading authority on modern voting methods. That is because, **from 2019 to 2021, we led a coalition through Missouri's first and only successful policymaking process, campaign, and implementation of a modern voting system called "approval voting,"** which we did in the City of St. Louis. Previously, St. Louis often elected leaders with less than 40% of the vote in the party primary, and no competitive general election. This left politicians with no mandate to govern, giving special interests greater ability to wield undue influence in city politics.

We explored both approval voting and ranked-choice voting. We consulted closely for months with local election authorities and national experts, including the Ranked Choice Voting Resource Center. After our analysis, we concluded that the City of St. Louis election machines were not compatible with ranked-choice voting at the time. However, as we explored other voting modernization campaigns throughout our state, we discovered that **almost all Missouri election authorities—107 of 116—use election machines that ARE compatible with ranked-choice voting (RCV)**. The only counties that do NOT have RCV-compatible equipment are as follows: City of St. Louis; Henry; Moniteau; Phelps; Mississippi; St. Clair; Sullivan; and Worth.

Based on our estimates, we believe the cost of implementing these two petitions will range from $0 to approximately $2,265,000 (453 machines). The range depends on various appropriations bills to upgrade old machines across the remaining 9 counties—some or all of which may move forward regardless of these two initiative petitions.

Please do not hesitate to contact us if you have any questions.

For our Republic,

Benjamin D. Singer, Executive Director
Show Me Integrity | (314) 239-1308
Benjamin@ShowMeIntegrity.org

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College,** and the **Clay County Board of Election Commissioners.**

Fiscal Note Summary

State and local governmental entities estimate no savings, one-time costs of $2.2 million to at least $4.6 million, and ongoing costs of at least $90,000 each primary election, $110,000 each general election, $75,000 each local government vacancy election, and $60,000 for all other elections.

RECEIVED
AUG 27 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 27, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Marc Ellinger regarding a proposed constitutional amendment to Article XIV (2022-059)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Marc Ellinger on August 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

MOC000003

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

Page No. _____

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and_____County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and_____County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 AUG 27 AM 8:19
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I,_____being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___do not___(check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____year_____, A.D.

_____ Signature of Notary

_____ Address of Notary

(Seal)

22-059

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article XIV is amended by amending Section 1 of Article XIV and enacting one new section to be known as Section 2 of Article XIV, to read as follows:

XIV Section 1. Right to access medical marijuana. — 1. Purposes.

This section is intended to permit state-licensed physicians and nurse practitioners to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians and nurse practitioners the possible benefits of medical marijuana use, the right of their physicians and nurse practitioners to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician or nurse practitioner.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians and nurse practitioners from civil and criminal penalties, and to allow for the limited legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

2. Definitions.

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, [or] oils, and other marijuana-infused products;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician or nurse practitioner.

(2) "Church" means a permanent building primarily and regularly used as a place of religious worship.

(3) "Daycare" means a child-care facility, as defined by section 210.201, RSMo., or successor provisions, that is licensed by the state of Missouri.

(4) "Department" means the department of health and senior services, or its successor agency.

[(3)] (5) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

[(4)] (6) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(7) "Infused Preroll" means a consumable or smokable marijuana product, generally consisting of: (1) a wrap or paper, (2) dried flower, buds, and/or plant material, and (3) a concentrate, oil or other type of marijuana extract, either within or on the surface of the product. Infused prerolls may or may not include a filter or crutch at the base of the product.

[(5)] (8) "Marijuana" or "marihuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the marijuana plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp, [containing a cropwide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis,] as defined by Missouri statute, or commodities or products manufactured from industrial hemp.

[(6)] (9) "Marijuana-infused products" means products that are infused, dipped, coated, sprayed, or mixed with marijuana or an extract thereof [and are intended for use or consumption other than by smoking], including, but not limited to, [edible products, ointments, tinctures and concentrates.] products that are able to be vaporized or smoked, edible products, ingestible products, topical products, suppositories, and infused prerolls.

(10) "Medical Facility" means any medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, as defined in this section.

[(7)] (11) "Medical marijuana cultivation facility" means a facility licensed by the department to acquire, cultivate, process, package, store on site or off site, transport to or from, and sell marijuana, marijuana seeds, and marijuana vegetative cuttings (also known as clones) to a medical marijuana dispensary facility, medical marijuana testing facility, medical marijuana cultivation facility, or to a medical marijuana-infused products manufacturing facility. A medical marijuana cultivation facility's authority to process marijuana shall include the production and sale of prerolls, but shall not include the manufacture of marijuana-infused products.

[(8)] (12) "Medical marijuana dispensary facility" means a facility licensed by the department to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, anywhere on the licensed property or to any address as directed by the patient or primary caregiver, so long as the address is a location allowing for the legal possession of marijuana, another medical marijuana dispensary facility, a [medical] marijuana testing facility, a medical marijuana cultivation facility, or a medical marijuana-infused products manufacturing facility. Dispensary facilities may receive transaction orders at the dispensary in person, by phone, or via the internet, including from a third party. A medical marijuana dispensary facility's authority to process marijuana shall include the production and sale of prerolls, but shall not include the manufacture of marijuana-infused products.

[(9)] (13) "Medical marijuana-infused products manufacturing facility" means a facility licensed by the department to acquire, process, package, store on site or off site, manufacture, transport to or from, and sell marijuana-infused products to a medical marijuana dispensary facility, a [medical] marijuana testing facility, a medical marijuana cultivation facility, or to another medical marijuana-infused products manufacturing facility.

[(10)] (14) "[Medical marijuana] Marijuana testing facility" means a facility certified by the department to acquire, test, certify, and transport marijuana, including those originally licensed as a medical marijuana testing facility.

[(11)] (15) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(16) "Nurse practitioner" means an individual who is licensed and in good standing as an advanced practice registered nurse, or successor designation, under Missouri law.

(17) "Owner" means an individual who has a financial (other than a security interest, lien, or encumbrance) or voting interest in ten percent or greater of a marijuana facility.

[(12)] (18) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

[(13)] (19) "Physician or nurse practitioner certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician or a nurse practitioner and stating that, in the physician's or nurse practitioner's professional opinion, the patient suffers from a qualifying medical condition.

(20) "Preroll" means a consumable or smokable marijuana product, generally consisting of: (1) a wrap or paper and (2) dried flower, buds, and/or plant material. Prerolls may or may not include a filter or crutch at the base of the product.

[(14)] (21) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department.

[(15)] (22) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician or nurse practitioner determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician or nurse practitioner, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

[(16)] (23) "Qualifying patient" means [a Missouri resident] an individual diagnosed with at least one qualifying medical condition.

(24) "Unduly burdensome" (when referring to a facility licensee or certificate holder) means the measures necessary to comply with the rules or ordinances adopted pursuant to this section subject the party to such a high investment or expense of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the facility; and. (when referring to qualifying patients, primary caregivers, physicians, nurse practitioners, or other party) "unduly burdensome" means the measures necessary to comply with the rules or ordinances adopted pursuant to this section undermine the purpose of this section.

3. Creating Patient Access to Medical Marijuana.

(1) In carrying out the implementation of this section, the department shall have the authority to:

(a) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, and transportation of marijuana and marijuana-infused products for medical use, as provided by this section and general law; suspend, impose an authorized fine, restrict, or revoke such licenses and certifications upon a violation of this section, general law, or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any general law enacted or rule promulgated pursuant to this section, so long as any procedure related to a suspension or revocation includes a reasonable cure period, not less than thirty days, prior to the suspension or revocation, except in instances where there is a credible and imminent threat to public health or public safety.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and for the enforcement of this section so long as patient access is not restricted unreasonably and such rules are reasonably necessary for patient safety or to restrict access to only licensees and qualifying patients.

(c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section[;].

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver to ensure that no medical marijuana grown by a medical marijuana cultivation facility or manufactured by a medical marijuana-infused products manufacturing facility is sold or otherwise transferred except by a medical marijuana dispensary facility. The department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities which demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to or from a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a [medical] marijuana testing facility, or another entity with a transportation certification. The department shall develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation of marijuana and marijuana-infused products. Any entity licensed or certified pursuant to this section shall be allowed to transport and store [cannabis] marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones) and marijuana-infused products for purposes related to transportation in compliance with department regulations on storage of marijuana and marijuana-infused products.

(f) The department may charge a fee not to exceed $5,000 for any certification issued pursuant to this section.

(g) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the department under this section[;].

(h) [Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section, which scoring shall be limited to an analysis of the following:] Establish a lottery selection process to select medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section. To be eligible for the medical marijuana license lottery process, an applicant cannot have an owner who has pleaded or been found guilty of a disqualifying felony. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(i) The person's conviction was for a marijuana offense, other than provision of marijuana to a minor; or

(ii) The person's conviction was for a non-violent crime for which he or she was not incarcerated and that is more than five years old; or

(iii) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent felony criminal offenses.

The department may consult with and rely on the records, advice, and recommendations of the attorney general and the department of public safety, or their successor entities, in carrying out the provisions of this subdivision.

[(i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers;

(ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income qualifying patients;

(iii) site security;

(iv) experience in a legal cannabis market;

(v) in the case of medical marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience;

(vi) the potential for positive economic impact in the site community;

(vii) in the case of medical marijuana cultivation facilities, capacity or experience with agriculture, horticulture, and health care;

(viii) in the case of medical marijuana dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;

(ix) in the case of medical marijuana-infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and

(x) maintaining competitiveness in the marijuana for medical use marketplace.]

In [ranking] establishing a lottery selection process to select medical marijuana licensee and certificate applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise [regarding these factors]. The department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by qualifying patients.

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, [fining,] imposing an authorized fine, and restricting, or revoking a state license or certification issued pursuant to this section, so long as any procedure related to a suspension or revocation includes a reasonable cure period, not less than thirty days, prior to the suspension or revocation, except in instances where there is a credible and imminent threat to public health or public safety;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) [Creation of a range of] As otherwise authorized by this section or general law, administrative penalties and policies for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the medical marijuana dispensary facility, product display and examination by the qualifying patient and/or primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events. While the department shall have the general power to regulate the advertising and promotion of marijuana sales, under all circumstances, any such regulation shall be no more stringent than comparable state regulations on the advertising and promotion of alcohol sales;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed or certified pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, shall forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to section 43.543, RSMo, or its successor provisions, and fees shall be paid pursuant to section 43.530, RSMo, or its successor provisions. Unless otherwise required by law, no individual shall be required to submit fingerprints more than once;

(i) Security requirements for any premises licensed or certified pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a medical marijuana dispensary facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. The department shall not require any medical marijuana or medical marijuana-infused products to be tested more than once prior to sale.

(4) The department shall issue rules or emergency rules to provide for the certification of and standards for [medical] marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as [medical] marijuana testing facilities. No [medical] marijuana testing facility shall be owned by an entity or entities under substantially common control, ownership, or management as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

(5) [The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section.] Any information released by the department related to patients may [be used] only be for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card. Beginning December 8, 2022, all public records produced or retained pursuant to this section are subject to the general provisions of the Missouri Sunshine Law, chapter 610, RSMo, or its successor provisions. Notwithstanding the foregoing, records containing proprietary business information obtained from an applicant or licensee shall be closed. For documents submitted on or after December 8, 2022, the applicant or licensee shall label business information it believes to be proprietary prior to submitting it to the department. For documents submitted prior to December 8, 2022, the applicant or licensee may advise the department, through a department approved process, of any records previously submitted by the applicant or licensee it believes contain proprietary business information. Proprietary business information shall include sales information, financial records, tax returns, credit reports, license applications, cultivation information unrelated to product safety, testing results unrelated to product safety, site security information and plans, and individualized consumer information. The presence of proprietary business information shall not justify the closure of public records:

(a) identifying the applicant or licensee;

(b) relating to any citation, notice of violation, tax delinquency, or other enforcement action;

(c) relating to any public official's support or opposition relative to any applicant, licensee, or their proposed or actual operations;

(d) where disclosure is reasonably necessary for the protection of public health or safety; or

(e) that are otherwise subject to public inspection under other applicable law.

(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation facilities, [medical] marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

(7) Within one hundred eighty days of December 6, 2018, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within two hundred ten days of December 6, 2018, the department shall begin accepting applications for such identification cards.

(8) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. [No more than three medical marijuana cultivation facility licenses shall be issued to any entity under substantially common control, ownership, or management.] An entity or entities under substantially common control, ownership, or management may not be an owner of more than ten percent of the total marijuana cultivation facility licenses outstanding under both sections 1 and 2 of this Article at any given time, rounded down to the nearest whole number.

(9) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. [No more than five medical marijuana dispensary facility licenses shall be issued to any entity under substantially common control, ownership, or management.] An entity or entities under substantially common control, ownership, or management may not be an owner of more than ten percent of the total marijuana dispensary facility licenses outstanding under both sections 1 and 2 of this Article at any given time, rounded down to the nearest whole number.

(10) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. [No more than three medical marijuana-infused products manufacturing facility licenses shall be issued to any entity under substantially common control, ownership, or management.] An entity or entities under substantially common control, ownership, or management may not be an owner of more than ten percent of the total marijuana-infused products manufacturing facility licenses outstanding under both sections 1 and 2 of this Article at any given time, rounded down to the nearest whole number.

(11) Any applicant for a license authorized by this section may prefile their application fee with the department beginning 30 days after December 6, 2018.

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to six flowering marijuana plants, six nonflowering marijuana plants (over fourteen inches tall), and six clones (plants under fourteen inches tall) for the exclusive use of that qualifying patient. The card shall be valid for [twelve months] three years from its date of issuance and shall be renewable with the [annual] submittal of a new or updated [physician's] physician or nurse practitioner certification. The department shall charge [an annual] a fee for the card of [one hundred] fifty dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(13) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty-day period, provided that limit is not less than [four] six ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from [two independent physicians] a physician or nurse practitioner that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the department.

(14) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty-day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. Qualifying patients cultivating marijuana for medical use may possess up to a ninety-day supply, so long as the supply remains on property under their control. Any such limit shall not apply to a qualifying patient with written certification from [two independent physicians] an independent physician or nurse practitioner that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty of up to two hundred dollars and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable [by imprisonment of up to one year and a fine of up to two thousand dollars] as an infraction under applicable law.

(15) The department may restrict the aggregate number of licenses granted for medical marijuana cultivation facilities and comprehensive marijuana cultivation facilities authorized by section 2 combined, provided, however, that the number may not be limited to fewer than one license per every one hundred thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department may restrict the aggregate number of licenses granted for medical marijuana-infused products manufacturing facilities and comprehensive marijuana-infused products manufacturing facilities authorized by section 2 combined, provided, however, that the number may not be limited to fewer than one license per every seventy thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department may restrict the aggregate number of licenses granted for medical marijuana dispensary facilities and comprehensive marijuana dispensary facilities authorized by section 2 combined, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018. Future changes to the boundaries of or the number of congressional districts shall have no impact.

(18) The department shall begin accepting license and certification applications for medical marijuana dispensary facilities, [medical] marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after

December 6, 2018. Applications for licenses and certifications under this section shall be approved or denied by the department no later than one hundred fifty days after their submission. If the department fails to carry out its nondiscretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(19) Qualifying patients under this section shall obtain [and annually renew] an identification card or cards from the department. The department shall charge a fee of twenty-five dollars [per year] per card. [with such fee to] Such fee may be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor or its successor agency. Cards shall be valid for three years and may be renewed with a new physician or nurse practitioner certification. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the department fails to deny and fails to issue a card to an eligible qualifying patient within thirty days, then their physician or nurse practitioner certification shall serve as their qualifying patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician or nurse practitioner certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician or nurse practitioner certification that is less than thirty days old.

(20) Primary caregivers under this section shall obtain [and annually renew] an identification card from the department. Cards shall be valid for three years. The department shall charge a fee of twenty-five dollars per [year, with such fee to] card. Such fee may be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(21) Except as otherwise provided in this Article, all [All] marijuana for medical use sold in Missouri shall be cultivated in a licensed medical marijuana cultivation facility located in Missouri.

(22) Except as otherwise provided in this Article, all [All] marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a medical marijuana-infused products manufacturing facility.

(23) The denial of a license, license renewal, or identification card by the department shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the department shall be subject to judicial review as provided by law.

(24) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(25) The department shall not have the authority to apply or enforce any unduly burdensome rule or regulation or administrative penalty [that would impose an undue burden on] upon any one or more licensees or certificate holders, any qualifying patients, or their primary caregivers, or act to undermine the purposes of this section.

4. Taxation and Reporting.

(1) A tax is levied upon the retail sale of marijuana for medical use sold at medical marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and paid to the department of revenue. After retaining no more than [five] two percent for its actual collection costs, amounts generated by the medical marijuana tangible personal property retail sales tax levied in this section shall be deposited by the department of revenue into the Missouri veterans' health and care fund. Licensed entities making retail sales within the state shall be

allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund", which shall consist of taxes and fees collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri veterans commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri service officer's program, and other services for veterans approved by the commission, including, but not limited to, health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri veterans commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from, and in addition to, any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

(6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080, RSMo, or its successor provisions, relating to the transfer of unexpended balances to the general revenue fund.

(8) For taxpayers authorized to do business pursuant to this Article, the amount that would have been deducted in the computation of federal taxable income pursuant to 26 U.S.C. Section 280E of the Internal Revenue Code as in effect on January 1, 2021, or successor provisions, but is disallowed because cannabis is a controlled substance under federal law, shall be subtracted from the taxpayer's federal adjusted gross income, in determining the taxpayer's Missouri adjusted gross income.

5. Additional Patient, Physician, Nurse Practitioner, Caregiver and Provider Protections.

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the department, and transportation of marijuana [from a medical marijuana dispensary facility to the qualifying patient's residence] by the qualifying patient or primary caregiver shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid qualifying patient cultivation identification card; a valid physician or nurse practitioner certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective substantially equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision and shall allow for the purchase of medical marijuana for use by a non-resident patient from a medical marijuana dispensary facility as permitted by this section and in compliance with department regulations.

(2) No patient shall be denied access to or priority for an organ transplant or other medical care because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician or nurse practitioner shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri state board of registration for the healing arts, the Missouri state board of nursing, or [its] their respective successor [agency] agencies, for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or issuing a physician or nurse practitioner certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A [medical] marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by nonemancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation of up to six flowering marijuana plants, six nonflowering marijuana plants (over fourteen inches tall), and six clones (plants under fourteen inches tall) per patient and no more than twenty-four flowering plants for more than one qualifying patient in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) [An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.] Notwithstanding any provision of Article V to the contrary, an attorney shall not be subject to disciplinary action by the Supreme Court of Missouri, the office of chief disciplinary counsel, the state bar association, any state agency, or any professional licensing body for any of the following:

(a) owning, operating, investing in, being employed by, or contracting with prospective or licensed marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, or transportation certificate holders;

(b) counseling, advising, and/or assisting a client in conduct permitted by Missouri law that may violate or conflict with federal or other law, as long as the attorney advises the client about that federal or other law and its potential consequences;

(c) counseling, advising, and/or assisting a client in connection with applying for, owning, operating, or otherwise having any legal, equitable, or beneficial interest in marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, or transportation certificates; or

(d) counseling, advising or assisting a qualifying patient, primary caregiver, physician, nurse practitioner, health care provider or other client related to activity that is no longer subject to criminal penalties under Missouri law pursuant to this Article.

(9) Actions and conduct by qualifying patients, primary caregivers, [medical] marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by qualifying patients, primary caregivers, [medical] marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by qualifying patients, primary caregivers, [medical] marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

(12) In the process of requesting a search or arrest warrant relating to the production, possession, transportation or storage of marijuana, a state or local law enforcement official shall verify with the department whether the targeted person is a qualifying patient or primary caregiver holding an identification card allowing for cultivation of marijuana plants under subdivision (12) of subsection 3 of this section, and shall inform the issuing authority accordingly when making the warrant request. Evidence of marijuana alone, without specific evidence indicating that the marijuana is outside of what is lawful for medical or adult use, cannot be the basis for a search of a patient or non-patient, including their home, vehicle or other property. Lawful marijuana related activities cannot be the basis for a violation of parole, probation, or any type of supervised release. State and local law enforcement shall only have access to such department information as is necessary to confirm whether the targeted person holds a registration card.

(13) Registered qualifying patients on bond for pre-trial release, on probation, or other form of supervised release shall not be prohibited from legally using a lawful marijuana product as a term or condition of release, probation, or parole. An alternative sentencing drug court program may not prohibit individuals under its jurisdiction from using a lawful marijuana product as long as the individual is a registered qualifying patient.

(14) A family court participant or party who requires treatment for a qualified medical condition in accordance with this section shall not be required to refrain from using medical marijuana as a term or condition of successful completion of the family court program. The

status and conduct of a qualified patient who acts in accordance with this section shall not, by itself, be used to restrict or abridge custodial or parental rights to minor children in any action or proceeding under the jurisdiction of a family court under chapter 487, RSMo, including domestic matters under chapter 452, RSMo, or a juvenile court under chapter 211, RSMo, or successor provisions.

(15) A person shall not be denied adoption, custody, or visitation rights relative to a minor solely for conduct that is permitted by this section.

(16) No person shall be denied their rights under Article 1, section 23 of the Missouri Constitution, or successor provisions, solely for conduct that is permitted by this section.

6. Legislation.

Nothing in this section shall limit the general assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section.

7. Additional Provisions.

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana. Notwithstanding the foregoing, an arrest or a conviction of a person who has a valid qualifying patient identification card for any applicable offenses shall require evidence that the person was in fact under the influence of marijuana at the time the person was in actual physical control of the dangerous device or motor vehicle, aircraft or motorboat and not solely on the presence of tetrahydrocannabinol (THC) or THC metabolites, or a combination thereof, in the person's system; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No medical marijuana cultivation facility, [medical] marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or entity with a transportation certification shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a nonviolent crime for which he or she was not incarcerated and that is more than five years old; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The department may consult with and rely on the records, advice and recommendations of the attorney general and the department of public safety, or their successor entities, in applying this subdivision.

(3) [All medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility licenses, entities with medical marijuana testing facility certifications, and entities with transportation certifications shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake in such entities.

(4)] No medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including an administrative penalty of five thousand dollars and loss of license.

[(5)] (4) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled as mandated by the department[, in a font size at least as large as the largest other font size used on the package,] as containing "Marijuana", or a "Marijuana-Infused Product". Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty of five thousand dollars.

[(6)] (5) No individual shall serve as the primary caregiver for more than [three] six qualifying patients. No primary caregiver cultivating marijuana for more than one qualifying patient may exceed a total of twenty-four flowering plants.

[(7) No qualifying patient shall consume marijuana for medical use in a public place, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.] (6) A person who smokes medical marijuana in a public place, other than in an area licensed for such activity by the department or by local authorities having jurisdiction over the licensing or permitting of said activity, is subject to a civil penalty not exceeding one hundred dollars.

[(8)] (7) No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty of one thousand dollars for a patient or primary caregiver and ten thousand dollars for a facility licensee and, if applicable, loss of their identification card, certificate, or license for up to one year.

[(9)] (8) All qualifying patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. Two qualifying patients, who both hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. [No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.] Primary caregivers cultivating marijuana for more than one qualifying patient may cultivate each respective qualifying patient's flowering plants in a single, enclosed locked facility subject to the limits of subsection 3, paragraph 12.

[(10)] (9) No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, [medical] marijuana testing facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise

transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

[(11)] (10) (a) Unless allowed by the local government, no new medical marijuana cultivation facility, [medical] marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. In the case of a freestanding facility, the distance between the facility and the school, daycare, or church shall be measured from the external wall of the facility structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church. If the school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the facility. In the case of a facility that is part of a larger structure, such as an office building or strip mall, the distance between the facility and the school, daycare, or church shall be measured from the property line of the school, daycare, or church to the facility's entrance or exit closest in proximity to the school, daycare, or church. If the school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the facility. Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot. No local government shall prohibit medical marijuana cultivation facilities, [medical] marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, [medical] marijuana testing facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality.

(b) The only local government ordinances or regulations that are binding on a medical facility are those of the local government where the medical facility is physically located.

[(12)] (11) Unless superseded by federal law or an amendment to this Constitution, a physician or nurse practitioner shall not certify a qualifying condition for a patient by any means other than providing a physician or nurse practitioner certification for the patient, whether handwritten, electronic, or in another commonly used format. [A qualifying patient must obtain a new physician certification at least annually.]

[(13)] (12) A physician or nurse practitioner shall not issue a certification for the medical use of marijuana for a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. Only a parent or guardian may serve as a primary caregiver for a nonemancipated qualifying patient under the age of eighteen. Only the qualifying patient's parent or guardian shall purchase or possess medical marijuana for a nonemancipated qualifying patient under the age of eighteen. A parent or guardian shall supervise the administration of medical marijuana to a nonemancipated qualifying patient under the age of eighteen.

[(14)] (13) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

[(15)] (14) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

(15) Unless a failure to do so would cause an employer to lose a monetary or licensing-related benefit under federal law, an employer may not discriminate against a person in hiring,

termination or any term or condition of employment or otherwise penalize a person, if the discrimination is based upon either of the following:

(a) The person's status as a qualifying patient or primary caregiver who has a valid identification card, including the person's legal use of a lawful marijuana product off the employer's premises during nonworking hours, unless the person was under the influence of medical marijuana on the premises of the place of employment or during the hours of employment; or

(b) A positive drug test for marijuana components or metabolites of a person who has a valid qualifying patient identification card, unless the person used, possessed, or was under the influence of medical marijuana on the premises of the place of employment or during the hours of employment.

Nothing in this subdivision shall apply to an employee in a position in which legal use of a lawful marijuana product affects in any manner a person's ability to perform job-related employment responsibilities or the safety of others, or conflicts with a bona fide occupational qualification that is reasonably related to the person's employment.

(16) The enactment of section 2 of this Article and concurrent amendments to section 1 of this Article shall have no effect upon any valid contract, claim, or cause of action instituted prior to the effective date of this section.

8. Federal Legalization.

If federal law, rules, or regulations are amended to allow the interstate commerce of marijuana or marijuana-infused products or the importation or exportation of marijuana or marijuana-infused products into or out of the state of Missouri, the provisions and intent of this section shall, to the extent possible, remain in full effect, unless explicitly preempted by such federal law, rule, or regulation. If federal law, rules, or regulations are amended as provided above, any marijuana or marijuana-infused products imported into this state shall be subject to the same testing standards and seed to sale tracking system required under this section for marijuana and marijuana-infused products produced within the state. Unless federal law, rules, or regulations explicitly require otherwise, no entity shall sell, transport, produce, distribute, deliver, or cultivate marijuana or marijuana-infused products without an applicable license or certificate as required under this section. In addition, any raw biomass of marijuana or marijuana flower imported from out-of-state shall be received only by a licensed cultivation facility, while all batch oil, infused marijuana products and any marijuana product in any other form shall be received only by a licensed manufacturing facility.

[8.] 9. Severability.

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

[9. Effective Date.

The provisions of this section shall become effective on December 6, 2018.]

Section 2. Marijuana Legalization, Regulation, and Taxation

1. Purpose.

The purpose of this section is to make marijuana legal under state and local law for adults twenty-one years of age or older, and to control the commercial production and distribution of marijuana under a system that licenses, regulates, and taxes the businesses involved while protecting public health. The intent is to prevent arrest and penalty for personal possession and cultivation of limited amounts of marijuana by adults twenty-one years of age or older; remove the commercial production and distribution of marijuana from the illicit market; prevent revenue generated from commerce in marijuana from going to criminal enterprises; prevent the

distribution of marijuana to persons under twenty-one years of age; prevent the diversion of marijuana to illicit markets; protect public health by ensuring the safety of marijuana and products containing marijuana; and ensure the security of marijuana facilities. To the fullest extent possible, this section shall be interpreted in accordance with the purpose and intent set forth in this section.

This section is not intended to allow for the public use of marijuana, driving while under the influence of marijuana, the use of marijuana in the workplace, or the use of marijuana by persons under twenty-one years of age.

2. Definitions.

(1) "Church" means a permanent building primarily and regularly used as a place of religious worship.

(2) "Comprehensive Facility" means a comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, or a comprehensive marijuana-infused products manufacturing facility.

(3) "Comprehensive Marijuana Cultivation Facility" means a facility licensed by the department to acquire, cultivate, process, package, store on site or off site, transport to or from, and sell marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones) to a medical facility, comprehensive facility, or marijuana testing facility. A comprehensive marijuana cultivation facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana. A comprehensive marijuana cultivation facility's authority to process marijuana shall include the creation of prerolls, but shall not include the manufacture of marijuana-infused products.

(4) "Comprehensive Marijuana Dispensary Facility" means a facility licensed by the department to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient or primary caregiver, as those terms are defined in section 1 of this Article, or to a consumer, anywhere on the licensed property or to any address as directed by the patient, primary caregiver, or consumer and consistent with the limitations of this Article and as otherwise allowed by law, to a comprehensive facility, a marijuana testing facility, or a medical facility. Comprehensive dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet, including from a third party. A comprehensive marijuana dispensary facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana, but shall collect all appropriate tangible personal property sales tax for each sale, as set forth in this Article and provided for by general or local law. A comprehensive marijuana dispensary facility's authority to process marijuana shall include the creation of prerolls.

(5) "Comprehensive Marijuana-Infused Products Manufacturing Facility" means a facility licensed by the department to acquire, process, package, store, manufacture, transport to or from a medical facility, comprehensive facility, or marijuana testing facility, and sell marijuana-infused products, prerolls, and infused prerolls to a marijuana dispensary facility, a marijuana testing facility, or another marijuana-infused products manufacturing facility. A comprehensive marijuana-infused products manufacturing facility need not segregate or account for its marijuana products as either non-medical marijuana or medical marijuana.

(6) "Consumer" means a person who is at least twenty-one years of age.

(7) "Daycare" means a child-care facility, as defined by section 210.201, RSMo., or successor provisions, that is licensed by the state of Missouri.

(8) "Department" means the department of health and senior services, or its successor agency.

(9) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability

company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(10) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(11) "Infused Preroll" means a consumable or smokable marijuana product, generally consisting of: (1) a wrap or paper, (2) dried flower, buds, and/or plant material, and (3) a concentrate, oil or other type of marijuana extract, either within or on the surface of the product. Infused prerolls may or may not include a filter or crutch at the base of the product.

(12) "Local government" means, in the case of an incorporated area, a village, town, or city and, in the case of an unincorporated area, a county.

(13) "Marijuana" or "marihuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the marijuana plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp, as defined by Missouri statute, or commodities or products manufactured from industrial hemp.

(14) "Marijuana accessories" means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marijuana into the human body.

(15) "Marijuana Facility" means a comprehensive marijuana cultivation facility, comprehensive marijuana dispensary facility, marijuana testing facility, comprehensive marijuana-infused products manufacturing facility, microbusiness wholesale facility, microbusiness dispensary facility, or any other type of marijuana-related facility or business licensed or certified by the department pursuant to this section, but shall not include a medical facility licensed under section 1 of this Article.

(16) "Marijuana-Infused Products" means products that are infused, dipped, coated, sprayed, or mixed with marijuana or an extract thereof, including, but not limited to, products that are able to be vaporized or smoked, edible products, ingestible products, topical products, suppositories, and infused prerolls.

(17) "Marijuana Microbusiness Facility" means a facility licensed by the department as a microbusiness dispensary facility or microbusiness wholesale facility, as defined in this section.

(18) "Microbusiness Dispensary Facility" means a facility licensed by the department to acquire, process, package, store on site or off site, sell, transport to or from, and deliver marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a consumer, qualifying patient, as that term is defined in section 1 of this Article, or primary caregiver, as that term is defined in section 1 of this Article, anywhere on the licensed property or to any address as directed by the consumer, qualifying patient, or primary caregiver and, consistent with the limitations of this Article and as otherwise allowed by law, a microbusiness wholesale facility, or a marijuana testing facility. Microbusiness dispensary facilities may receive transaction orders at the dispensary directly from the consumer in person, by phone, or via the internet, including from a third party. A microbusiness dispensary facility's authority to process marijuana shall include the creation of prerolls.

(19) "Microbusiness Wholesale Facility" means a facility licensed by the department to acquire, cultivate, process, package, store on site or off site, manufacture, transport to or from, deliver, and sell marijuana, marijuana seeds, marijuana vegetative cuttings (also known as clones), and marijuana infused products to a microbusiness dispensary facility, other microbusiness wholesale facility, or marijuana testing facility. A microbusiness wholesale facility may cultivate up to 250 flowering marijuana plants at any given time. A microbusiness wholesale facility's authority to process marijuana shall include the creation of prerolls and infused prerolls.

(20) "Marijuana Testing Facility" means a facility certified by the department to acquire, test, certify, and transport marijuana, including those originally certified as a medical marijuana testing facility.

(21) "Owner" means an individual who has a financial (other than a security interest, lien, or encumbrance) or voting interest in ten percent or greater of a marijuana facility.

(22) "Preroll" means a consumable or smokable marijuana product, generally consisting of: (1) a wrap or paper and (2) dried flower, buds, and/or plant material. Prerolls may or may not include a filter or crutch at the base of the product.

(23) "Unduly burdensome" means that the measures necessary to comply with the rules or ordinances adopted pursuant to this section subject licensees or potential licensees to such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the marijuana facility.

3. Limitations.

(1) Except as otherwise provided in this Article, this section does not preclude, limit, or affect laws that assign liability relative to, prohibit, or otherwise regulate:

(a) Delivery or distribution of marijuana or marijuana accessories, with or without consideration, to a person younger than twenty-one years of age;

(b) Purchase, possession, use, or transport of marijuana or marijuana accessories by a person younger than twenty-one years of age;

(c) Consumption of marijuana by a person younger than twenty-one years of age;

(d) Operating or being in physical control of any motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana. Notwithstanding the foregoing, a conviction of a person who is at least twenty-one years of age for any applicable offenses shall require evidence that the person was in fact under the influence of marijuana at the time the person was in physical control of the motorized form of transport and not solely on the presence of tetrahydrocannabinol (THC) or THC metabolites, or a combination thereof, in the person's system;

(e) Consumption of marijuana while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(f) Smoking marijuana within a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(g) Possession or consumption of marijuana or possession of marijuana accessories on the grounds of a public or private preschool, elementary or secondary school, institution of higher education, in a school bus, or on the grounds of any correctional facility;

(h) Smoking marijuana in a location where smoking tobacco is prohibited;

(i) Consumption of marijuana in a public place, other than in an area licensed by the authorities having jurisdiction over the licensing and/or permitting of said activity, as set forth in subsection 5 of this section;

(j) Conduct that endangers others;

(k) Undertaking any task while under the influence of marijuana, if doing so would constitute negligence, recklessness, or professional malpractice; or

(l) Performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol, unless licensed for this activity by the department.

(2) This section does not limit any privileges, rights, immunities, or defenses of a person or entity as provided in section 1 of this Article, or any other law of this state allowing for or regulating marijuana for medical use.

(3) This section does not require an employer to permit or accommodate conduct otherwise allowed by this section in any workplace or on the employer's property. This section does not prohibit an employer from disciplining an employee for working while under the influence of marijuana. This section does not prevent an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because that person was working while under the influence of marijuana.

(4) This section allows an entity to prohibit or otherwise limit the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana-infused products, and marijuana accessories on private property the entity owns, leases, occupies, or manages, except that a lease agreement executed after the effective date of this section may not prohibit a tenant from lawfully possessing and consuming marijuana by means other than smoking.

(5) The enactment of this section and all concurrent amendments to section 1 of this Article shall have no effect upon any valid contract, claim, or cause of action instituted prior to the effective date of this section.

4. Regulation of Marijuana.

(1) In carrying out the implementation of this section and as conditioned herein, the department shall have the authority to:

(a) Grant or refuse state licenses for the cultivation, manufacture, dispensing, and sale of marijuana; suspend, restrict, or revoke such licenses upon a violation of this section or a rule promulgated pursuant to this section; and impose any reasonable administrative penalty authorized by this section or any general law enacted or rule promulgated pursuant to this section, so long as any procedure related to a suspension or revocation includes a reasonable cure period, not less than thirty days, prior to the suspension or revocation, except in instances where there is a credible and imminent threat to public health or public safety;

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana and for the enforcement of this section so long as such rules are reasonable and not unduly burdensome;

(c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks marijuana from either the seed or immature plant stage until the marijuana or marijuana-infused product is sold to a qualified patient, primary caregiver, or consumer to ensure that no marijuana grown by a medical marijuana cultivation facility, comprehensive marijuana cultivation facility, or microbusiness wholesale facility, or manufactured by a medical marijuana-infused products manufacturing facility, a comprehensive marijuana-infused products manufacturing facility, or a microbusiness wholesale facility is sold or otherwise transferred to a consumer, qualified patient, or primary caregiver except by a medical marijuana dispensary facility, a comprehensive dispensary facility, or a microbusiness dispensary facility. The department shall certify all commercially available tracking systems that are compliant with its tracking standards and issue standards for the creation or use of other systems by licensees;

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities that demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to or from a comprehensive facility, medical facility, microbusiness facility, another entity with a transportation certification, or any entity licensed pursuant to paragraph (g) of this subdivision. The department shall develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation and temporary storage of marijuana and marijuana-infused products. Any entity licensed or certified pursuant to this

section shall be allowed to transport its own inventory and products in compliance with department transportation rules and store marijuana and marijuana-infused products for the purposes related to transportation in compliance with department regulations on secure storage of marijuana and marijuana-infused products;

(f) Promulgate rules and emergency rules specific to the licensing, regulation, and oversight of marijuana microbusiness facilities;

(g) Provide for the issuance of additional types or classes of licenses to operate marijuana-related businesses that:

(i) allow for only transportation, delivery, or storage of marijuana; or

(ii) are intended to facilitate scientific research or education.

(h) Prepare and transmit annually a publicly available report accounting to the governor, the general assembly, and the public for the efficient discharge of all responsibilities assigned to the department under this section. The report shall provide aggregate data for each type of license (medical, comprehensive, and microbusiness) and facility (dispensary, cultivation, manufacturers, wholesalers.) Only non-identifying information shall be provided regarding any marijuana facility owners;

(i) Establish a lottery selection process to select comprehensive facility licenses, certificate holders, marijuana microbusiness licensees, but not medical facility licensees that are converting to comprehensive licenses pursuant to this subsection. To become eligible for any license lottery selection process, an owner cannot have pleaded guilty or been found guilty of a disqualifying felony, as that term is defined in subsection 9 of this section.

(j) In developing a lottery selection process to award licenses and certificates, the department may consult or contract with other public agencies with relevant expertise.

(k) While not required as a prerequisite to participation in a comprehensive license lottery, every comprehensive license applicant shall submit to the department a voluntary plan to promote and encourage participation in the regulated marijuana industry by people from communities that have been disproportionately impacted by marijuana prohibition. The plan may include strategies to address geographical defined communities that have been disproportionately impacted by marijuana prohibition; provide for ownership opportunities for disproportionately impacted communities; and provide for employment, supplier, and vendor opportunities for individuals and businesses in communities that have been disproportionately impacted by marijuana prohibition. If licensed, any voluntary applicant plan shall be enforceable by the department.

(l) Notwithstanding other grants of authority herein, neither the department nor any governmental body may restrict the production or use of marijuana and marijuana-infused products based solely upon THC content,

(m) Set a limit on the amount of marijuana that may be purchased in a single transaction provided that limit is not less than three ounces of dried, unprocessed marijuana, or its equivalent.

(n) Regulate the advertising and promotion of marijuana sales, but any such regulation shall be no more stringent than comparable state regulations on the advertising and promotion of alcohol sales.

(2) The department shall issue, at a minimum, the same number of comprehensive marijuana cultivation facility licenses as were authorized or issued for medical marijuana cultivation facilities under section 1 of this Article as of December 7, 2022, the same number of comprehensive marijuana-infused products manufacturing facility licenses as were authorized or issued for medical marijuana-infused products manufacturing facilities under section 1 of this Article as of December 7, 2022, the same number of comprehensive marijuana dispensary facility licenses with the same congressional distribution requirements as were authorized or issued for medical marijuana dispensary facilities under section 1 of this Article as of December 7, 2022, in addition to the minimum number of marijuana microbusiness licenses as are required under this section. The department may lift or ease any limit on the number of licensees or

certificate holders in order to meet the demand for marijuana in the state and to ensure a competitive market while also preventing an over-concentration of marijuana facilities within the boundaries of any particular local government.

(3) If comprehensive facility licenses become available because the number of total issued licenses in any respective category falls below the minimum required under this section or the department determines more comprehensive facility licenses are necessary to meet the requirements of subdivision (2) of this subsection, the department shall award by lottery at least fifty percent of any new licenses available to satisfy the minimum requirement to applicants who are owners of a marijuana microbusiness facility that has been in operation for at least one year and is in good standing with the department and is otherwise qualified for the license.

(4) The department may issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana by consumers. In developing such rules or emergency rules, the department may consult or contract with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department shall issue rules or emergency rules relating to the following subjects:

(a) Procedures for issuing a license and for renewing, suspending, and revoking a license, so long as any procedure related to a suspension or revocation includes a reasonable cure period, not less than thirty days, prior to the suspension or revocation, except in instances where there is a credible and imminent threat to public health or public safety;

(b) Requirements and standards for safe cultivation, processing, and distribution of marijuana and marijuana-infused products by marijuana facilities, including health standards to ensure the safe preparation of marijuana-infused products;

(c) Testing, packaging, and labeling standards, procedures, and requirements for marijuana and marijuana-infused products and a requirement that a representative sample of marijuana be tested by a marijuana testing facility to ensure public health;

(d) Labeling standards that protect public health by requiring the listing of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, the number of servings per package, and quantity limits per sale to comply with the allowable possession amount;

(e) Requirements that packaging and labels shall not be made to be attractive to children, required warning labels, and that marijuana and marijuana-infused products be sold in resealable, child-resistant packaging to protect public health;

(f) Security requirements, including lighting, physical security, and alarm requirements, and requirements for securely transporting marijuana between marijuana facilities;

(g) Record keeping requirements for marijuana facilities and monitoring requirements to track the transfer of marijuana by licensees;

(h) A plan to promote and encourage ownership and employment in the marijuana industry by people from political subdivisions and districts that are economically distressed and to positively impact those political subdivisions and districts;

(i) Administrative penalties as authorized by this section for failure to comply with any rule promulgated pursuant to this section or for any violation of rules and regulations adopted pursuant to this section by a licensee, including authorized administrative fines and suspension, revocation, or restriction of a license. The licensee may choose to challenge any penalties imposed by the department through the administrative hearing commission, or its successor entity. Pursuant to section 536.100, RSMo, or its successor provisions, any licensee who has exhausted all administrative remedies provided by law and who is aggrieved by a final decision in a contested case is entitled to judicial review;

(j) Reporting and transmittal of tax payments required under this section;

(k) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(l) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(5) The department shall issue rules or emergency rules for a marijuana and marijuana-infused products independent testing and certification program for marijuana facility licensees and requiring licensees to test marijuana using one or more impartial, independent laboratory or laboratories to ensure, at a minimum, correct labeling, potency measurement, and that products sold for human consumption do not contain contaminants that are potentially injurious to public health.

(6) The department shall issue rules or emergency rules to provide for the certification of and standards for marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. No marijuana testing facility shall be owned by an entity or entities under substantially common control, ownership, or management as a marijuana cultivation facility, marijuana-infused products manufacturing facility, marijuana microbusiness facility, or marijuana dispensary facility.

(7) All public records produced or retained pursuant to this section are subject to the general provisions of the Missouri Sunshine Law, chapter 610, RSMo, or its successor provisions. Notwithstanding the foregoing, public records containing proprietary business information obtained from an applicant or licensee shall be closed. The applicant or licensee shall label business information it believes to be proprietary prior to submitting it to the department. Proprietary business information shall include sales information, financial records, tax returns, credit reports, license applications, cultivation information unrelated to product safety, testing results unrelated to product safety, site security information and plans, and individualized consumer information. The presence of proprietary business information shall not justify the closure of public records:

(a) Identifying the applicant or licensee;

(b) Relating to any citation, notice of violation, tax delinquency, or other enforcement action;

(c) Relating to any public official's support or opposition relative to any applicant, licensee, or their proposed or actual operations;

(d) Where disclosure is reasonably necessary for the protection of public health or safety; or

(e) That are otherwise subject to public inspection under applicable law.

(8) Within one hundred and eighty days of the effective date of this section, the department shall make available to the public license application forms and application instructions for marijuana microbusiness facilities. Within two hundred and seventy days of the effective date of this section, the department shall start accepting such applications from applicants.

(9) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a comprehensive marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a non-refundable fee of twelve thousand dollars per license application or renewal for all applicants filing an application within three years of the effective date of this section and shall charge each applicant a non-refundable fee of five thousand dollars per license application or

renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. An entity may not be an owner of more than ten percent of the total marijuana cultivation facility licenses outstanding under both sections 1 and 2 of this Article at any given time, rounded down to the nearest whole number.

(10) An entity may apply to the department for and obtain one or more licenses to operate a comprehensive marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a non-refundable fee of seven thousand dollars per license application or renewal for each applicant filing an application within three years of the effective date of this section and shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. An entity may not be an owner of more than ten percent of the total marijuana dispensary facility licenses outstanding under both sections 1 and 2 of this Article at any given time, rounded down to the nearest whole number.

(11) An entity may apply to the department for and obtain one or more licenses to operate a comprehensive marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a non-refundable fee of seven thousand dollars per license application or renewal for each applicant filing an application within three years of the effective date of this section and shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. An entity may not be an owner of more than ten percent of the total marijuana-infused products manufacturing facility licenses outstanding under both sections 1 and 2 of this Article at any given time, rounded down to the nearest whole number.

(12) An entity may apply to the department for and obtain only one license to operate a marijuana microbusiness facility, which may be either a microbusiness dispensary facility or a microbusiness wholesale facility. A marijuana microbusiness facility licensee may engage in all of the activities allowed under the license or it may apply for and engage in a subset of the activities allowed if the applicant or license holder so chooses. A microbusiness wholesale facility may cultivate, process, manufacture, transport, and sell marijuana and marijuana-infused products to any other marijuana microbusiness facility. A microbusiness dispensary facility licensee may acquire from any other microbusiness facility, process, package, deliver, and sell marijuana and marijuana-infused products to any other marijuana microbusiness facility, or directly to qualified patients, their primary caregiver, or consumers. A marijuana microbusiness license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a fee of one thousand five hundred dollars per license application and for each subsequent license renewal application thereafter. Any applicant that meets the criteria to apply for a marijuana microbusiness facility license but is not chosen by the lottery system may have their application fee refunded. Once granted, the department shall charge each licensee an annual fee of one thousand five hundred dollars per facility license, but there shall be no annual fee assessed for the first year of licensure. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. An entity may not be an owner of more than one marijuana microbusiness facility license. An owner of a marijuana microbusiness facility may not also be an owner of another licensed marijuana facility or medical facility regulated under this Article. However, the owner of a marijuana microbusiness facility may apply for a license or licenses for other marijuana or medical marijuana facilities under this Article. If granted one or more of these licenses, the marijuana

microbusiness facility owner shall transition to other licensed operations on a reasonably practical timetable established by the department, and surrender its marijuana microbusiness facility license to the department for issuance to an applicant for a marijuana microbusiness facility. In addition to other requirements established by this section, an applicant for a marijuana microbusiness license shall be majority owned by individuals who each meet at least one of the following qualifications:

(a) Have a net worth of less than $250,000 and have had an income below two hundred and fifty percent of the federal poverty level, or successor level, as set forth in the applicable calendar year's federal poverty income guidelines published by the U.S. Department of Health and Human Services or its successor agency, for at least three of the ten calendar years prior to applying for a marijuana microbusiness facility license; or

(b) Have a valid service-connected disability card issued by the United States Department of Veterans Affairs, or successor agency; or

(c) Be a person who has been, or a person whose parent, guardian or spouse has been arrested for, prosecuted for, or convicted of a non-violent marijuana offense, except for a conviction involving provision of marijuana to a minor, or a conviction of driving under the influence of marijuana. The arrest, charge, or conviction must have occurred at least one year prior to the effective date of this section; or

(d) Reside in a ZIP code or census track area where:

(i) Thirty percent or more of the population lives below the federal poverty level; or

(ii) The rate of unemployment is fifty percent higher than the state average rate of unemployment; or

(iii) The historic rate of incarceration for marijuana-related offenses is fifty percent higher than the rate for the entire state; or

(e) Graduated from a school district that was unaccredited, or had a similar successor designation, at the time of graduation, or has lived in a zip code containing an unaccredited school district, or similar successor designation, for three of the past five years.

(13) The department may restrict the aggregate number of licenses granted for marijuana microbusiness facilities, provided, however, that the number may not be limited to fewer than the following number of licenses in each United States congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018:

(a) Six, once the department begins issuing licenses for marijuana microbusiness facilities under this subsection, at least two of which shall be a microbusiness dispensary facility, and at least four of which will be a microbusiness wholesale facility. The department shall issue the first group of microbusiness licenses no later than three hundred days after the effective date of this section;

(b) An additional six following the first two hundred and seventy days after the department begins issuing licenses for marijuana microbusiness facilities under this subsection, at least two of which shall be a microbusiness dispensary facility, and at least four of which will be a microbusiness wholesale facility, but only after the chief equity officer, or his or her designee, conducts a review and certifies that previous microbusiness licenses were awarded to and are being operated by eligible applicants in good standing; and

(c) An additional six after the first five hundred and forty-eight days after the department begins issuing licenses for marijuana microbusiness facilities under this subsection, at least two of which shall be a microbusiness dispensary facility, and at least four of which will be a microbusiness wholesale facility, but only after the chief equity officer, or his or her designee, conducts a review and certifies that previous microbusiness licenses were awarded to and are being operated in good standing by eligible applicants.

Future changes to the boundaries or the number of congressional districts shall have no impact on microbusiness license numbers or distribution. The eligibility review set forth in this

subdivision shall be conducted by the chief equity officer within sixty days of issuance of the licenses. The chief equity officer shall publish in a manner available to the public the results of the review that contains only aggregate information on licensee eligibility criteria.

(14) Within 60 days after the effective date of this section, the department shall appoint a chief equity officer. The chief equity officer shall assist with the development and implementation of programs to inform the public of the opportunities available to those people who meet the criteria set forth in paragraph (12) of this subsection. The chief equity officer shall establish public education programming and targeted technical assistance programming dedicated to providing communities that have been impacted by marijuana prohibition with information detailing the licensing process and informing individuals of the support and resources that the office can provide to individuals and entities interested in participating in activity licensed under this Article. The chief equity officer shall provide a report to the department, no later than January 1, 2024, and annually thereafter, of their and the department's activities in ensuring compliance with the applicant criteria set forth in paragraph (12) of this subsection, and the department shall provide such report to the legislature. The chief equity officer may only be removed for cause and the department shall not interfere with the officer's lawful official activities under this section.

(15) Any medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility, holding an active facility license under section 1 of this Article shall have the right to convert their license to a comprehensive marijuana license, and any entity certified by the department to conduct medical marijuana testing, transportation or seed-to-sale tracking, as of the effective date of this section shall be deemed certified to conduct those activities with respect to all marijuana;

(16) Upon the effective date of this section, any existing medical facility licensee may request its medical facility license convert to that of a comprehensive facility license. Conversion requests not processed within sixty days of department receipt shall be deemed approved.

(17) With the exception of microbusiness licenses, and consistent with any limitations set forth in this section, for the first five hundred and forty-eight days after the department begins issuing licenses for marijuana facilities under this section, the department may only issue a license:

(a) For a comprehensive marijuana cultivation facility to an entity holding a medical marijuana cultivation facility license issued pursuant to section 1 of this Article seeking to convert its licensure to that of a comprehensive marijuana cultivation facility at the same location;

(b) For a comprehensive marijuana dispensary facility to an entity holding a medical marijuana dispensary facility license issued pursuant to section 1 of this Article seeking to convert its licensure to that of a comprehensive marijuana dispensary facility at the same location; and

(c) For a comprehensive marijuana-infused products manufacturing facility to an entity holding a medical marijuana-infused products manufacturing facility license issued pursuant to section 1 of this Article seeking to convert its licensure to that of a comprehensive marijuana-infused products manufacturing facility at the same location.

(18) The department shall issue a license to each request for a conversion to a comprehensive marijuana facility license pursuant to subdivision (15) of this subsection if the applicant is in good standing with the department.

(19) Notwithstanding the provisions of section 1 of this Article, if an existing medical marijuana dispensary facility is located in a jurisdiction that prohibits non-medical retail marijuana facilities under this section, or is otherwise prevented from operating a comprehensive marijuana dispensary facility at the same location as the existing medical marijuana dispensary facility, the medical marijuana dispensary facility may apply to the department for a comprehensive marijuana dispensary license pursuant to subdivision (15) of this subsection in a new location within the same congressional district, and such application shall be granted so long as the new location meets all the requirements of this section and department regulations.

(20) In addition to the foregoing, if the department has reason to believe that the conversion of a medical facility into a comprehensive facility might limit or restrict access to an adequate supply of marijuana and marijuana-infused products at a reasonable cost to qualifying patients, as defined in section 1 of this Article, the department may request a plan from the medical facility licensee which explains how the applicant would serve both the medical and adult-use markets, while maintaining adequate supply at a reasonable cost to qualifying patients.

(21) Comprehensive marijuana facilities licensed to distribute marijuana, marijuana-infused products, and marijuana accessories directly to consumers pursuant to this section may also distribute marijuana, marijuana-infused products, and marijuana accessories to qualifying patients and primary caregivers consistent with section 1 of this Article and department regulation.

(22) The department may charge a fee not to exceed two thousand five hundred dollars for any certification issued pursuant to this section. This fee limitation shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(23) Within thirty days of December 8, 2022, the department shall make available to the public application forms and application instructions for personal cultivation registration cards. Within sixty days of December 8, 2022, the department shall begin accepting applications for such registration cards.

(24) Except for good cause, a person at least twenty-one years of age may obtain a registration card from the department to cultivate up to six flowering marijuana plants, six nonflowering marijuana plants (over fourteen inches tall), and six clones (plants under fourteen inches tall) for non-commercial use, provided:

(a) The plants and any marijuana produced by the plants in excess of three ounces are kept at one private residence, are in a locked space, and are not visible by normal, unaided vision from a public place; and

(b) Not more than twelve flowering marijuana plants are kept in or on the grounds of a private residence at one time.

The card shall be valid for twelve months from its date of issuance and shall be renewable. The department shall charge an annual fee for the card of one hundred dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(25) All marijuana sold in Missouri pursuant to this section shall be cultivated in Missouri.

(26) All marijuana-infused products sold in Missouri pursuant to this section shall be manufactured in Missouri.

(27) The denial of a license or license renewal by the department shall be appealable. The applicant may choose to challenge any denial by the department through the administrative hearing commission, or successor entity. Pursuant to section 536.100, RSMo, or its successor provisions, any licensee who has exhausted all administrative remedies provided by law and who is aggrieved by a final decision in a contested case is entitled to judicial review.

(28) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(29) To minimize the potential for undue political influence in awarding licenses, the department shall review license applications using reasonable safeguards that ensure the identity of the applicant and its principal owners, officers, and managers are not identified to the application reviewer.

(30) To ensure the consistent protection of public health and public safety, the department shall have the sole authority within the state of Missouri to issue licenses for marijuana facilities and certifications pursuant to this section.

(31) The department shall not have the authority to promulgate, apply, or enforce any rule or regulation that is unduly burdensome or act to undermine the purposes of this section.

5. Local Control.

(1) (a) Except as provided in this subsection, a local government may prohibit the operation of all microbusiness dispensary facilities or comprehensive marijuana dispensary facilities regulated under this section from being located within its jurisdiction either through referral of a ballot question to the voters by the governing body or through citizen petition, provided that citizen petitions are otherwise generally authorized by the laws of the local government. Such a ballot question shall be voted on only during the regularly scheduled general election held on the first Tuesday after the first Monday in November of a presidential election year, starting in 2024, thereby minimizing additional local governmental cost or expense. A citizen petition to put before the voters a ballot question prohibiting microbusiness dispensary facilities or comprehensive marijuana dispensary facilities shall be signed by at least five percent of the qualified voters in the area proposed to be subject to the prohibition, determined on the basis of the number of votes cast for governor in such locale at the last gubernatorial election held prior to the filing of the petition. The local government shall count the petition signatures and give legal notice of the election as provided by applicable law. Denial of ballot access shall be subject to judicial review.

(b) Whether submitted by the governing body or by citizen's petition, the question shall be submitted in the following form: "Shall (insert name of local government) ban all non-medical microbusiness dispensary facilities and comprehensive marijuana dispensary facilities from being located within (insert name of local government and, where applicable, its "unincorporated areas") and forgo any additional related local tax revenue? ( ) Yes ( ) No." If at least sixty percent of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the ban shall go into effect as provided by law. If a question receives less than the required sixty percent, then the jurisdiction shall have no power to ban non-medical microbusiness dispensary facilities or comprehensive marijuana facilities regulated under this section, unless voters at a subsequent general election on the first Tuesday after the first Monday in November of a presidential election year approve a ban on non-medical retail marijuana facilities submitted to them by the governing body or by citizen petition.

(2) (a) A local government may repeal an existing ban by its own ordinance or by a vote of the people, either through referral of a ballot question to the voters by the governing body or through citizen petition, provided that citizen petitions are otherwise generally authorized by the laws of the local government. In the case of a referral of a ballot question by the governing body or citizen petition to repeal an existing ban, the question shall be voted on only during the regularly scheduled general election held on the first Tuesday after the first Monday in November of a presidential election year. A citizen petition to put before the voters a ballot question repealing an existing ban shall be signed by at least five percent of the qualified voters in the area subject to the ban, determined on the basis of the number of votes cast for governor in such locale at the last gubernatorial election held prior to the filing of the petition. The local government shall count the petition signatures and give legal notice of the election as provided by applicable law. Denial of ballot access shall be subject to judicial review.

(b) Whether submitted by the governing body or by citizen's petition, the question shall be submitted in the following form: "Shall (insert name of local government) allow non-medical microbusiness dispensary facilities and comprehensive marijuana dispensary facilities to be located within (insert name of local government and where applicable, its "unincorporated areas") as regulated by state law? ( ) Yes ( ) No." If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the ban shall be repealed.

(3) The only local government ordinances and regulations that are binding on a marijuana facility are those of the local government where the marijuana facility is located.

(4) Unless allowed by the local government, no new marijuana facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-

care center, or church. In the case of a freestanding facility, the distance between the facility and the school, daycare, or church shall be measured from the external wall of the facility structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church. If the school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the facility. In the case of a facility that is part of a larger structure, such as an office building or strip mall, the distance between the facility and the school, daycare, or church shall be measured from the property line of the school, daycare, or church to the facility's entrance or exit closest in proximity to the school, daycare, or church. If the school, daycare, or church is part of a larger structure, such as an office building or strip mall, the distance shall be measured to the entrance or exit of the school, daycare, or church closest in proximity to the facility. Measurements shall be made along the shortest path between the demarcation points that can be lawfully traveled by foot.

(5) Except as otherwise provided in this subsection, no local government shall prohibit marijuana facilities or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a marijuana facility or entity holding a transportation certification that may operate in such locality.

(6) Local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing:

(a) the time and place where marijuana may be smoked in public areas within the locality; and

(b) the consumption of marijuana-infused products within designated areas, including the preparation of culinary dishes or beverages by local restaurants for on-site consumption on the same day it is prepared.

6. Taxation and Reporting.

(1) A tax shall be levied upon the retail sale of non-medical marijuana sold to consumers at marijuana facilities licensed pursuant to this section within the state. The tax shall be at a rate of six percent of the retail price. The tax shall be collected by each licensed retail marijuana facility and paid to the department of revenue. After retaining no more than two percent of the total tax collected or its actual collection costs, whichever is less, amounts generated by the marijuana tangible personal property retail sales tax levied in this section shall be deposited by the department of revenue into the "Veterans, Health, and Community Reinvestment Fund" created under this subsection. Licensed entities making non-medical retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit. This tax shall not apply to medical marijuana dispensed to a registered qualifying patient or caregiver.

(2) There is hereby created in the state treasury the "Veterans, Health, and Community Reinvestment Fund" which shall consist of taxes and fees collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall be distributed as follows:

(a) First, as determined by appropriation, to the department an amount necessary for the department to carry out its responsibilities under this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public

agencies necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Second, as determined by appropriation, to governmental entities in amounts necessary for carrying out responsibilities in the expungement of criminal history records under this section;

(c) Next, the remaining fund balance shall be distributed in thirds as follows:

(i) One-third of the remainder of the fund balance shall be transferred to the Missouri veterans commission and allied state agencies, as determined by appropriation, exclusively for health care and other services for military veterans and their dependent families;

(ii) One-third of the remainder of the fund balance to the department to provide grants to agencies and not-for-profit organizations, whether government or community-based, to increase access to evidence-based low-barrier drug addiction treatment, prioritizing medically proven treatment and overdose prevention and reversal methods and public or private treatment options with an emphasis on reintegrating recipients into their local communities, to support overdose prevention education, and to support job placement, housing, and counseling for those with substance use disorders. Agencies and organizations serving populations with the highest rates of drug-related overdose shall be prioritized to receive the grants; and

(iii) One-third of the remainder of the fund balance to the Missouri public defender system. Any moneys credited to the Missouri public defender system shall be used only for legal assistance for low-income Missourians, shall not be diverted to any other purpose.

(d) All monies from the taxes and fees authorized hereunder shall provide new and additional funding for the purposes enumerated above and shall not replace existing funding.

(e) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080, RSMo, or its successor provisions, relating to the transfer of unexpended balances to the general revenue fund.

(3) For all retail sales of marijuana, a record shall be kept by the seller of all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected, and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from and in addition to any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Pursuant to Article III, section 49 of this Constitution, the governing body of any local government is authorized to impose, by ordinance or order, an additional sales tax in an amount not to exceed three percent on all tangible personal property retail sales of adult use marijuana sold in such political subdivision. The tax authorized by this paragraph shall be in addition to any and all other tangible personal property retail sales taxes allowed by law, except that no ordinance or order imposing a tangible personal property retail sales tax under the provisions of this paragraph shall be effective unless the governing body of the political subdivision submits to the voters of the political subdivision, at a municipal, county or state general, primary or special election, a proposal to authorize the governing body of the political subdivision to impose a tax. Any additional local retail sales tax shall be collected pursuant to general laws for the collection of local sales taxes.

(6) Except as authorized in this Article, no additional taxes shall be imposed on the sale of marijuana.

(7) The fees and taxes provided for in this section shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(8) For taxpayers authorized to do business pursuant to this Article, the amount that would have been deducted in the computation of federal taxable income pursuant to 26 U.S.C. Section 280E of the Internal Revenue Code as in effect on January 1, 2021, or successor provisions, but is disallowed because cannabis is a controlled substance under federal law, shall be subtracted from the taxpayer's federal adjusted gross income, in determining the taxpayer's Missouri adjusted gross income.

7. Additional Protections.

(1) A marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(2) Notwithstanding any provision of Article V to the contrary, an attorney shall not be subject to disciplinary action by the Supreme Court of Missouri, the office of chief disciplinary counsel, the state bar association, any state agency or any professional licensing body for any of the following:

(a) owning, operating, investing in, being employed by, or contracting with prospective or licensed marijuana testing facilities, marijuana cultivation facilities, marijuana dispensary facilities, marijuana-infused products manufacturing facilities, marijuana microbusiness facilities, or transportation certificate holders;

(b) counseling, advising, and/or assisting a client in conduct permitted by Missouri law that may violate or conflict with federal or other law, as long as the attorney advises the client about that federal or other law and its potential consequences;

(c) counseling, advising, and/or assisting a client in connection with applying for, owning, operating, or otherwise having any legal, equitable, or beneficial interest in marijuana testing facilities, marijuana cultivation facilities, marijuana dispensary facilities, marijuana-infused products manufacturing facilities, marijuana microbusiness facilities, or transportation certificates; or

(d) counseling, advising or assisting a qualifying patient, primary caregiver, physician, nurse practitioner, health care provider, consumer, or other client related to activity that is no longer subject to criminal penalties under Missouri law pursuant to this Article.

(3) Actions and conduct by marijuana facilities licensed or otherwise certified by the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(4) The department may not promulgate a rule that requires a consumer to provide a marijuana facility with identifying information other than identification to determine the consumer's age.

(5) It is the public policy of the state of Missouri that contracts related to marijuana that are entered into by marijuana facilities and those who allow property to be used by those entities should be enforceable. It is the public policy of the state of Missouri that no contract entered into by marijuana facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to marijuana may be prohibited by federal law.

(6) Prior to requesting a search or arrest warrant relating to cultivation of marijuana plants, a state or local law enforcement official shall verify with the department whether the targeted person holds a registration card allowing for cultivation of flowering marijuana plants under this section, and shall inform the issuing authority when making the warrant request. Evidence of marijuana alone, without specific evidence indicating that the marijuana is outside of what is lawful for medical or adult use, cannot be the basis for a search of a patient or non-patient, including their home, vehicle or other property. Lawful marijuana related activities cannot be the basis for a violation of parole, probation, or any type of supervised release. State and local law enforcement shall have access to such department information as is necessary to

confirm whether the targeted person holds a registration card. Each time a state or local law enforcement officer executes a search warrant authorizing entry upon premises for an alleged marijuana offense, the officer must first knock or announce their presence or purpose prior to entering the premises.

(7) (a) After executing a search warrant for an alleged marijuana offense, or conducting a warrantless search for an alleged marijuana offense, the officer shall report the following information to the agency that employs the officer:

(i) The reasons for the warrant or, in the case of a warrantless search, a detailed account of either the probable cause or exigent circumstances, if any, which lead to the warrantless search;

(ii) Whether any marijuana was discovered during the course of the search;

(iii) Whether any marijuana was seized during the search, and if so, the amount seized;

(iv) Whether any other contraband was discovered or seized in the course of the search, and if seized, a description of the contraband;

(v) A description of the tactics used by law enforcement to enter the property;

(vi) Whether an arrest was made as a result of the search; and

(vii) If an arrest was made, the crime suspected.

(b) Each law enforcement agency shall compile the data described in paragraph (a) of this subdivision for the calendar year into a report and shall submit the report to the attorney general no later than March first of the following calendar year. The attorney general shall determine the format that all law enforcement agencies shall use to submit the report.

(c) The attorney general shall submit a summary of the annual reports of law enforcement agencies to the governor, the general assembly, and each law enforcement agency no later than June first of each year. The summary shall include the total number of such warrants executed by each agency in the previous calendar year for alleged marijuana offenses, and a compilation of the information reported by law enforcement agencies pursuant to paragraph (b) of this subdivision.

8. Legislation.

Nothing in this section shall limit the general assembly from enacting laws consistent with the purposes and provisions of this section.

9. Additional Provisions.

(1) No owner of a marijuana facility or entity with a transportation certification shall be an individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for a marijuana offense that has been expunged or is currently eligible for expungement under this section; or

(b) The person's conviction was for a non-violent crime for which he or she was not incarcerated and that is more than five years old; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent felony criminal offenses.

The department may consult with and rely on the records, advice, and recommendations of the attorney general and the department of public safety, or their successor entities, in carrying out the provisions of this subdivision.

(2) Owners licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal

record check in accordance with U.S. Public Law 92-544, or its successor provisions. The Missouri state highway patrol, if necessary, shall forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to section 43.543, RSMo, or its successor provisions, and fees shall be paid pursuant to section 43.530, RSMo, or its successor provisions. Unless otherwise required by law, no individual shall be required to submit fingerprints more than once.

(3) No marijuana facility shall manufacture, package, or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between marijuana or a marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including an administrative penalty of five thousand dollars and loss of license.

(4) No marijuana facility may sell edible marijuana-infused candy in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including an administrative penalty of five thousand dollars and loss of license.

(5) All marijuana and marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with serving amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, as mandated by the department, as containing "Marijuana" or a "Marijuana-Infused Product." Violation of this subdivision shall subject the violator to department sanctions, including an administrative penalty of five thousand dollars.

(6) A marijuana facility may not allow cultivation, manufacturing, sale, or display of marijuana, marijuana-infused products, or marijuana accessories to be visible from a public place outside of the marijuana facility without the use of binoculars, aircraft, or other optical aids.

(7) A marijuana facility may not cultivate, manufacture, test, sell, or store marijuana at any location other than a physical address approved by the department and within an enclosed area that is secured in a manner that prevents access by persons not permitted by the marijuana facility to access the area.

(8) A marijuana facility shall secure every entrance to the facility so that access to areas containing marijuana is restricted to employees and other persons permitted by the marijuana facility to access the area and to agents of the department or state and local law enforcement officers and emergency personnel and shall secure its inventory and equipment during and after operating hours to deter and prevent theft of marijuana, marijuana-infused products, and marijuana accessories.

(9) No marijuana facility may refuse representatives of the department the right to inspect the licensed premises or to audit the books and records of the marijuana facility. A facility that holds licenses issued under sections 1 and 2 of this Article shall comply with inspection regulations and standards issued pursuant to both sections.

(10) No marijuana facility, or entity with a certification, shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

(11) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

(12) No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license, marijuana-infused products manufacturing facility license, or a marijuana microbusiness wholesale facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty of one thousand dollars for an individual and ten

thousand dollars for a facility licensee and, if applicable, loss of certificate or license for up to one year.

10. Personal Use of Marijuana.

(1) Subject to the limitations in subsection 3 of this section, the following acts by a person at least twenty-one years of age are not unlawful and shall not be an offense under state law or the laws of any local government within the state or be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain, search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the laws of any local government:

(a) Purchasing, possessing, consuming, using, ingesting, inhaling, processing, transporting, delivering without consideration, or distributing without consideration three ounces or less of dried, unprocessed marijuana, or its equivalent;

(b) Possessing, transporting, planting, cultivating, harvesting, drying, processing, or manufacturing up to six flowering marijuana plants, six nonflowering marijuana plants (over fourteen inches tall), and six clones (plants under fourteen inches tall) provided the person is registered with the department for cultivation of marijuana plants under this section, provided:

(i) The plants and any marijuana produced by the plants in excess of three ounces are kept at one private residence, are in a locked space, and are not visible by normal, unaided vision from a public place; and

(ii) Not more than twice the number of allowable plants under paragraph (b) of this subdivision are kept in or on the grounds of a private residence at one time.

(c) Assisting another person who is at least twenty-one years of age in, or allowing property to be used for, any of the acts permitted by this section; and

(d) Purchasing, possessing, using, delivering, distributing, manufacturing, transferring, or selling to persons twenty-one years of age or older marijuana accessories.

(2) A person who, pursuant to this section, cultivates marijuana plants that are visible by normal, unaided vision from a public place is subject to a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana.

(3) A person who, pursuant to this section, cultivates marijuana plants that are not kept in a locked space is subject to a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana.

(4) A person who smokes marijuana in a public place, other than in an area licensed for such activity by the authorities having jurisdiction over the licensing and/or permitting of said activity, is subject to a civil penalty not exceeding one hundred dollars.

(5) A person who is under twenty-one years of age who possesses, uses, ingests, inhales, transports, delivers without consideration or distributes without consideration three ounces or less of marijuana, or possesses, delivers without consideration, or distributes without consideration marijuana accessories is subject to a civil penalty not to exceed one hundred dollars and forfeiture of the marijuana. Any such person shall be provided the option of attending up to four hours of drug education or counseling in lieu of the fine.

(6) Subject to the limitations of this section, a person who possesses not more than twice the amount of marijuana allowed pursuant to this subsection, produces not more than twice the amount of marijuana allowed pursuant to this subsection, delivers without receiving any consideration or remuneration to a person who is at least twenty-one years of age not more than twice the amount of marijuana allowed by this subsection, or possesses with intent to deliver not more than twice the amount of marijuana allowed by this subsection:

(a) For a first violation, is subject to a civil infraction punishable by a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana;

(b) For a second violation, is subject to a civil infraction punishable by a civil penalty not exceeding five hundred dollars and forfeiture of the marijuana;

(c) For a third or subsequent violation, is subject to a misdemeanor punishable by a fine not exceeding one-thousand dollars and forfeiture of the marijuana;

(d) A person under twenty-one years of age is subject to a civil penalty not to exceed two hundred and fifty dollars. Any such person shall be provided the option of attending up to eight hours of drug education or counseling in lieu of the fine; and

(e) In lieu of payment, penalties under this subsection may be satisfied by the performance of community service. The rate of pay-down associated with said service option will be the greater of $15 or the minimum wage in effect at the time of judgment.

(7) (a) Any person currently incarcerated in a prison, jail or halfway house, whether by trial or open or negotiated plea:

(i) Who would not have been guilty of an adult or juvenile offense, had sections 1 and 2 of this Article been in effect at the time of the offense; or

(ii) Who would have been guilty of a lesser adult or juvenile offense had sections 1 and 2 of this Article been in effect at the time of the offense; or

(iii) Who is serving a sentence for a marijuana offense which is a misdemeanor, a class E felony, or a class D felony, or successor designations, involving possession of three pounds or less of marijuana, excluding offenses involving distribution or delivery to a minor, any offenses involving violence, or any offense of operating a motor vehicle while under the influence of marijuana;

may petition the sentencing court to vacate the sentence, order immediate release from incarceration and other supervision by the department of corrections. and the expungement of all government records of the case. Such expungement from all government records shall be granted for all of the person's applicable marijuana offenses, absent good cause for denial. The effect of such orders shall be to restore such person to the status the person occupied prior to such arrest, plea or conviction and as if such event had never taken place, and the conviction and sentence shall be vacated as legally invalid. No person for whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge such arrest, plea, trial, conviction, or expungement in response to any inquiry made of the person for any purpose whatsoever, and no such inquiry shall be made for information relating to an expungement. The court shall not assess any filing fee for these filings. The office of the state public defender shall prepare and make readily available and accessible a pleading form that may be filed pro se for this purpose. The circuit courts of the state shall also make readily available and accessible this pleading form. Within ninety days of the effective date of this section, the sentencing court shall complete the adjudication for all cases involving only misdemeanor marijuana offenses. Within one hundred and eighty days of the effective date of this section, the sentencing court shall complete the adjudication for all cases involving class E, or successor designation, felony marijuana offenses and, if applicable, any additional marijuana misdemeanor offenses by such offenders. Within two hundred and seventy days of the effective date of this section, the sentencing court shall complete the adjudication for all class D, or successor designation, felony cases involving three pounds or less of marijuana, as well as any lesser marijuana offenses by such offenders, if applicable. This shall not apply to offenses while operating a commercial motor vehicle as defined in 49 CFR 390.5, or its successor provisions, in interstate or intrastate transportation unless otherwise exempted as found in section 307.400, RSMo, or its successor provisions.

(b) Any person currently on probation or parole for a marijuana law violation, whether by trial or open or negotiated plea:

(i) Who would not have been guilty of an adult or juvenile offense, had sections 1 and 2 of this Article been in effect at the time of the offense; or

(ii) Who would have been guilty of a lesser adult or juvenile offense had sections 1 and 2 of this Article been in effect at the time of the offense; or

(iii) Who was convicted or plead guilty to a marijuana offense which is a misdemeanor, a class E felony, or a class D felony, or successor designations, involving the possession of three

pounds or less of marijuana, excluding distribution or delivery to a minor or any offense of operating a motor vehicle while under the influence of marijuana;

shall, upon the effective date of this section, have their sentence automatically vacated by the sentencing court, which shall order the immediate termination of supervision by the department of corrections. and the expungement of all government records of the case. Such expungement from all government records shall be granted for all of the person's applicable marijuana offenses, absent good cause for denial. The effect of such orders shall be to restore such person to the status the person occupied prior to such arrest, plea or conviction and as if such event had never taken place, and the conviction and sentence shall be vacated as legally invalid. No person for whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge such arrest, plea, trial, conviction, or expungement in response to any inquiry made of the person for any purpose whatsoever, and no such inquiry shall be made for information relating to an expungement. The court shall not assess any filing fee for these cases. This shall not apply to offenses while operating a commercial motor vehicle as defined in 49 CFR 390.5, or its successor provisions, in interstate or intrastate transportation unless otherwise exempted as found in section 307.400, RSMo, or its successor provisions.

(8) (a) Within six months of the effective date of this section, the circuit courts of this state shall order the expungement of the criminal history records of all misdemeanor marijuana offenses for any person who is no longer incarcerated or under the supervision of the department of corrections. Within twelve months of the effective date of this section, the circuit courts of this state shall order the expungement of criminal history records for all persons no longer incarcerated or under the supervision of the department of corrections but who have completed their sentence for any felony marijuana offenses and any marijuana offenses that would no longer be a crime after the effective dates of sections 1 and 2 of this Article, excluding distribution or delivery to a minor, any such offenses involving violence, or any offense of operating a motor vehicle while under the influence of marijuana. For all class A, class B and class C, or successor designations, felony marijuana offenses, and for all class D, or successor designation, felony marijuana offenses for possession of more than three pounds of marijuana, the circuit courts of this state shall order expungement of criminal history records upon the completion of the person's incarceration, including any supervised probation or parole. For the purposes of this subdivision, "criminal history record" means all information documenting an individual's contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(b) An expungement order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense, and the conviction and sentence shall be vacated as legally invalid. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. The court shall provide notice of the expungement to the person who is the subject of the record at the person's last known address, the arresting agency, prosecuting attorneys, central state depository of criminal records, and any other entity that may have a record related to the order to expunge. The central state depository of criminal records shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center, or its successor agency. The court shall issue the person a certificate stating that the offense for which the person was convicted has been expunged and that its effect is to annul the record of arrest, conviction, and sentence.

(c) The effect of such expungement shall be to restore such person to the status the person occupied prior to such arrest, plea, or conviction and as if such event had never taken place. Such person shall not be required to acknowledge the existence of such a criminal history record or answer questions about the record in any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, and may deny the existence of the record regardless of whether the person has received notice from the court that an expungement order has been issued on the person's behalf.

(d) No person shall be prosecuted again for any offense which has been vacated or expunged.

(e) The court shall keep a special index of cases that have been expunged together with the expungement order and the certificate issued pursuant to this subsection. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement. The special index and related documents shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons. The court may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records. The index and documents made available by the court may not include any identifying information.

(9) A person currently under parole, probation, or other state supervision, or released awaiting trial or other hearing, may not be punished or otherwise penalized based solely on conduct that is permitted by this section.

(10) No conduct permitted by this section shall constitute the basis for detention, search, or arrest; and except when law enforcement is investigating whether a person is operating a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana, the odor of marijuana or burnt marijuana, the possession or suspicion of possession of marijuana without evidence of a quantity in excess of the lawful amount, or the possession of multiple containers of marijuana without evidence of quantity in excess of the lawful amount shall not individually or in combination with each other constitute reasonably articulable suspicion of a crime. Marijuana and marijuana-infused products as permitted by this section are not contraband nor subject to seizure.

(11) A person shall not be denied eligibility in public assistance programs or public benefits based solely on conduct that is permitted by this Article, unless required by federal law.

(12) No person shall be denied their rights under Article 1, section 23 of the Missouri Constitution, solely for conduct that is permitted by this section.

(13) No person shall be denied parental rights, custody of, or visitation with a minor child by a state or local government executive agency based solely on conduct that is permitted by this section, unless the person's behavior is such that it creates an unreasonable danger to a minor child that can be established by clear and convincing evidence.

11. Interstate Commerce.

If federal law, rules, or regulations are amended to allow the interstate commerce of marijuana or marijuana-infused products or the importation or exportation of marijuana or marijuana-infused products into or out of the state of Missouri, the provisions and intent of this section shall, to the extent possible, remain in full effect, unless explicitly preempted by such federal law, rule, or regulation. If federal law, rules, or regulations are amended as provided above, any marijuana or marijuana-infused products imported into this state shall be subject to the same testing standards and seed to sale tracking system required under this section for marijuana and marijuana-infused products produced within the state. Unless federal law, rules, or regulations explicitly require otherwise, no entity shall sell, transport, produce, distribute, deliver, or cultivate marijuana or marijuana-infused products without an applicable license or certificate as required under this section. In addition, any raw biomass of marijuana or marijuana flower imported from out-of-state shall be received only by a licensed cultivation facility, while all batch oil, infused marijuana products and any marijuana product in any other form shall be received only by a licensed manufacturing facility.

12. Severability.

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

13. Effective Date.

The provisions of this section shall become effective thirty days after the election, as provided by this Constitution.

Michael L. Parson
Governor

Paul Kirchhoff
Executive Director

MISSOURI VETERANS COMMISSION

205 Jefferson Street, P.O. Drawer 147, Jefferson City, MO 65102-0147
Telephone: (573) 751-3779 www.mvc.dps.mo.gov Fax: (573) 751-6836

August 30, 2021

The Honorable John R. Ashcroft
Secretary of State
600 W. Main Street
Jefferson City, MO 65101

Dear Secretary of State Ashcroft,

Initiative Petition 2022-059 (hereinafter, the Petition) could have a disastrous fiscal impact upon the Missouri Veterans Commission. However, as explained below, there are too many variables in the Petition which come into play before the Commission receives its allocation under the proposed non-medical marijuana program to definitively state as much, so the Commission defers to the analysis of its sister agencies as further explained below.

Under the existing medical marijuana program (Article XIV of the Missouri Constitution), the Commission anticipates receiving $2,529,753 in FY22 and $2,929,271 in FY23 from the tax revenues generated from the retail sales of medical marijuana. The Petition makes some changes to that program by making it easier to obtain medical certification to use medical marijuana treatments (hence, a positive impact), but also expands the rights of individuals to cultivate their own marijuana (hence, a negative impact). Therefore, the Commission anticipates an overall neutral fiscal impact from these changes. However, the Petition's greatest potential fiscal impact to the Commission is in the creation of a non-medical marijuana program (the proposed Article XIV, section 2 to the Missouri Constitution) and the nature and extent of that impact is unascertainable at this time.

The currently existing medical marijuana program is predicated on medical need and the physician certification that marijuana is the appropriate treatment for that medical need. Conversely, the non-medical marijuana program has no requirement for medical need or for physician certification. It is only common sense that those wishing to use marijuana products will forego the inconvenience of establishing medical need and obtaining a physician's certification and avail themselves of the non-medical program should one exist regardless of their reason for wanting to use marijuana products. Therefore, we anticipate a significant reduction in the tax revenues generated by the medical marijuana program, perhaps as high as a 90% reduction, should the Petition become law.

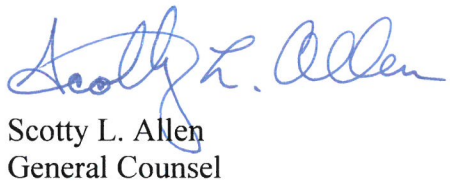
Moreover, given the significantly different distribution of tax revenues provided for under the non-medical marijuana program, it is not clear whether the Commission can anticipate tax revenues generated under the non-medical program to defray the reduction we would experience

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER
services provided on a nondiscriminatory basis

under the medical marijuana program. Specifically, the medical marijuana program establishes a 4% tax on all retail sales of medical marijuana and allocates to the Commission all of those proceeds minus 5% to the Department of Revenue and an amount to the Department of Health and Senior Services necessary to defray their costs in regulating the program. The Petition changes the percentage which the Department of Revenue is entitled to keep to 2%, but otherwise makes no changes to this arrangement. Conversely, the non-medical marijuana program establishes a 6% tax on all retail sales of non-medical marijuana and allocates those proceeds to the "Veterans, Health, and Community Reinvestment Fund" minus 2% for the Department of Revenue. Thereafter, the monies in the "Veterans, Health, and Community Reinvestment Fund" are divided as such: an appropriation for the Department of Health and Senior Services' operating costs in regulating the program; an appropriation for government entities to expunge criminal records as required by the Petition; and then one-third of the remaining proceeds to the Commission.

Therefore, the language of the Petition makes it highly speculative how much in tax revenues under the non-medical marijuana program the Commission could receive. Therefore, the Commission defers to its sister agencies as to the total anticipated tax revenues from the non-medical marijuana program; the operating costs of the Department of Health and Senior Services in regulating such a program; and the costs of government entities to expunge criminal records as required by the Petition. If I can be of any further assistance on this issue, please contact me at (573) 522-4224 at your convenience.

Sincerely,



Scotty L. Allen
General Counsel
Missouri Veterans Commission

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University, Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** and the **Metropolitan Police Department - City of St. Louis.**

Fiscal Note Summary

State governmental entities estimate initial costs of $3.1 million, initial revenues of at least $7.9 million, annual costs of $5.5 million, and annual revenues of at least $40.8 million. Local governments are estimated to have annual costs of at least $35,000 and annual revenues of at least $13.8 million.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 26, 2021

RECEIVED
AUG 2 6 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Brain regarding a proposed constitutional amendment to Article VIII (2022-058)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Andrew Brain on August 26, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

22-058

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 AUG 26 AM 8:58

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Street Address of Affiant

_____
Printed Name of Affiant

_____
City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____
Signature of Notary

_____
Address of Notary

NOTICE: The proposed amendment revises Article VIII of the Constitution by adopting six new Sections to be known as Article VIII, Sections 24, 25, 26, 27, 28, and 29.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article VIII of The Constitution is revised by adopting six new Sections to be known as Article VIII, Sections 24, 25, 26, 27, 28, and 29 to read as follows:

Section 24. 1. Every voting machine used to conduct an election in the State of Missouri shall be tested and certified as secure prior to each election in which the machine will be used. Such testing and certification shall meet all federal standards.
2. Every voting machine used to conduct an election in the State of Missouri shall produce an individual, permanent paper record for each vote cast, which shall be made available for inspection and verification by the voter at the time the vote is cast. Such individual, permanent paper record shall be preserved for use in any election audit.
3. The candidate or their designee shall have the right to be present whenever paper ballots or the permanent paper records produced by electronic voting machines are counted, audited, or placed in storage.
4. Nothing in this Section shall be construed in such a way as to limit overseas servicemembers' access to secure voting options.

Section 25. 1. Beginning at the August 2024 primary election, and notwithstanding any other provision of law to the contrary, primary elections for all statewide offices, members of the Missouri General Assembly, U.S. Senator, U.S. Representative, elective offices of county governments, circuit and associate circuit judges who are not selected pursuant to Article V, Section 25(a) or 25(b) of the Missouri Constitution, and all public offices within any political subdivision that are filled through partisan elections, shall be open primaries where the four candidates for each office receiving the most votes advance to the general election.
2. Primary ballots for such offices shall meet the following criteria:
(1) All candidates for an office shall appear on a single ballot.
(2) Primary ballots shall include space for a write-in candidate for such offices.
(3) Primary ballots for partisan offices shall also include all candidates for public office described in this Section.
3. In the primary election for all statewide offices, members of the Missouri General Assembly, U.S. Senator, U.S. Representative, all elective offices of county governments, circuit and associate circuit judges who are not selected pursuant to Article V, Section 25(a) or 25(b) of the Missouri Constitution, and all public offices within any political subdivision that are filled through partisan elections, a qualified voter shall be permitted to cast a vote for any candidate for whom that voter is otherwise eligible to vote, regardless of candidates' party affiliations or lack thereof.
4. The four candidates for each office receiving the most votes in the primary election shall advance to the general election for that office. Only those candidates shall appear on the general election ballot.
5. If two or more candidates receive an equal number of votes for the same office, such that there is a tie for fourth place, such candidates or their designees shall have the right to draw lots to determine whose name shall appear on the general election ballot. If a candidate declines to participate, the election authority shall draw lots on their behalf.

Section 26. 1. Beginning at the November 2024 general election, and notwithstanding any other provision of law to the contrary, general elections for all statewide offices, members of the Missouri General Assembly, U.S. Senator, U.S. Representative, elective offices of county governments, circuit and associate circuit judges who are not selected pursuant to Article V, Section 25(a) or 25(b) of the Missouri Constitution, and all public offices within any political subdivision that are filled through partisan elections, shall be approval voting elections in which

a qualified voter may select as many candidates as they approve of for each office, and the candidate for each office receiving the most votes shall be elected.
2. Vote percentages for each office shall be calculated by dividing the total number of votes for a candidate divided by the total number of ballots cast by all qualified voters for such office.
3. The ballot shall be simple and easy to understand, consistent with best practices.
4. Instructions on the general election ballot shall include the following statement for each race: "Vote for AS MANY names as you approve."
5. Beginning at least one hundred twenty days before the first election utilizing the approval voting system, the Secretary of State and local election authorities shall conduct a voter education campaign to familiarize voters with the approval voting system.

Section 27. 1. Beginning August 1, 2024, and notwithstanding any other provision of law to the contrary, a special election shall be called to fill any vacancy in a statewide office, office of member of the Missouri General Assembly, office of member of the United States Congress, office of circuit judge not selected pursuant to Article V, Section 25(a) or 25(b), office of associate circuit judge not selected pursuant to Article V, Section 25(a) or 25(b) of the Missouri Constitution, and public offices within any political subdivision that are filled through partisan elections.
2. A special election to fill a vacancy in any such office shall be conducted pursuant to the primary and general election processes described in Sections 25 and 26 of this Article.

Section 28. The Secretary of State shall issue rules and regulations necessary to implement Sections 24 to 27 of this Article. No rule or portion of a rule promulgated under the authority of such Sections shall become effective unless it has been promulgated pursuant to the requirements provided by law.

Section 29. If any provision of Sections 24, 25, 26, 27, or 28, or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-058)

Subject

Initiative petition from Andrew Brain regarding a proposed constitutional amendment to Article VIII. (Received August 26, 2021)

Date

September 15, 2021

Description

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Chris Raleigh, Director of Campaigns and Advocacy, The Center for Election Science provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article VIII, with their assumption that the initiative petition only relates to general and primary elections.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department, Director's Office.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal addresses numerous election topics including testing/certification of election machines and alternative voting systems. This proposal relating to elections should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition will not have a fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal addresses numerous election topics including testing and certification of election machines and alternative voting systems. The proposal does not carry a financial impact for their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this ballot measure would alter the method of elections for most partisan public offices in Missouri.

Under the current model, each party runs candidates on its own ticket, with the top vote-getter from each party advancing to the general election, joined by any independent or write-in candidates. The proposed measure would instead have candidates of all parties as well as write-ins appear on one primary ticket (independent candidates are not suitably addressed, but they assume they would follow suit), with the four highest vote-getters advancing to the general election. Such general election would then be conducted using the approval voting system, with voters allowed to cast votes for as many candidates as they approve of.

There are three potential areas of expense which could be incurred in implementing this measure: ballot production costs, the required public education campaign, and reprogramming of the state election management system. The state may be required to pay any or all of these costs under Article X, Section 21 of the Missouri Constitution.

It is anticipated that if an open primary system is put in place, local election authorities (LEAs) could expect some election cost savings due to the reduced number of ballot styles (though these savings could be lessened or overshadowed by an increased cost for printing larger individual ballots). Since the state shares proportional costs for primary elections,

any costs or savings by the LEAs will be shared to a lesser degree by the state in odd-numbered fiscal years. However, due to the scope of the changes that would be involved in instituting this system, the amount of costs or savings to the state is considered to be unknown at this time.

This measure would require their office to conduct a voter education campaign to familiarize voters with the approval voting system. The precise cost of such a campaign would vary depending on strategic decisions and appropriation by the General Assembly. A statewide educational campaign is estimated to reach or exceed $2,000,000 beginning in fiscal year (FY) 2024.

Finally, the Missouri Centralized Voter Registration program (MCVR) may need to be modified to accept votes cast using the approval voting system. This may require programming resources to be devoted beyond those covered under the normal maintenance and upkeep contracts. The cost of such additional resources is unknown.

Each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. They estimate $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following costs as a result of this initiative petition:

- ~$50,000 **onetime** software expense to update both primary and general election ballots in Sections 26-27
- ~$25,000 each primary election to print each paper record under 24.2
- ~$25,000 each general election to print each paper record under 24.2
- ~$5,000 each primary election for poll workers to assist with voter inspection of records under 24.2
- ~$10,000 each general election for poll workers to assist with voter inspection of records under 24.2
- ~5,000 in **onetime** training costs for workers
- ~$10,000 in **onetime** voter education costs under Section 26.5

In sum, ~$65,000 in onetime costs and ~$65,000 in recurring costs every even election year (both primary and general).

Officials from **Greene County** indicated it has been determined there will be costs to their county in the provisions of Section 26 and Section 27.

The estimated costs for Section 26 and Section 27 are itemized as follows:

Section 26 - Voter Education Cost Estimate (one-time costs):

Mail Two Educational Pieces to Registered Voter Households	-	$65,000
Radio and Television Education Messaging	-	$15,000
Estimate Total:	-	$80,000

Section 27 – Sample Vacancy Elections for Potential Cost Estimate:

State Representative Vacancy Election – 16 Polling Locations for House District 135-	$70,000
Countywide Vacancy Election – 80 polling locations -	$357,141
County Commission District Election – 40 polling locations -	$260,062

Each of the above estimates are independent costs of each other and therefore cannot be added together as one figure for the estimate. It is possible that the costs could be shared with other items on the same ballot.

Officials from the **City of Kansas City** indicated this petition would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **St. Louis County Board of Elections** indicated they estimate this would have a one-time cost of $100,000 for a voter education campaign.

Officials from the **Board of Election Commissioners City of St. Louis** indicated this petition would have no fiscal impact on their local government entity.

Officials from the **Kansas City Board of Election Commissioners** indicated there are many costs associated with this amendment. They are described below:

1) Petitions must be checked. Staff overtime and additional temporary staff expenses may be incurred at an estimated cost of $15,000 to $40,000.

2) An election in the Kansas City portion of Jackson County costs roughly $625,000. This cost will be prorated among all the entities that participate in that election, based on voter registration.

3) To supplement the SOS's public education, public notices would need to be sent to all voters or published in newspapers at an estimated cost of $25,000 to $100,000 to provide detailed information of the new process.

4) Election day judge and staff training would be estimated at $35,000.

5) If this proposed amendment becomes law, then their computers used for tabulation would have to be sent back to the vendor and the hardware wiped clean and the new software would be installed for $15,000. The software for the ballot marking devices must be upgraded and installed by the vendor. Cost is estimated between $25,000 to $50,000.

6) Additional security required for election night and days after the elections through certification due to the unrest that will be caused by the lack of understanding of new voting procedures. Estimated cost $25,000.

Officials from the **Platte County Board of Elections** indicated there should be no fiscal impact to their Board of Elections from this proposed amendment.

Officials from the **Jackson County Election Board** indicated their software can handle programming for the initiative petition language. They estimate a cost of $50,000 for

mailings to the voters for voter education and a possible additional cost if the ballot becomes a three page ballot, which would necessitate extra judge training of $20,000 and an additional $63,000 for ballot printing.

Chris Raleigh, Director of Campaigns and Advocacy, The Center for Election Science provided the following information:

TO: **Auditor Galloway**
DATE: **9/2/2021**
FROM: **The Center for Election Science**
Chris Raleigh, Director of Campaigns & Advocacy
RE: **Fiscal Impact of Initiative Petition 2022-058**

Dear Auditor Galloway,

We are writing on behalf of the Center for Election Science regarding the estimated fiscal impact of initiative petition 2022-058, which would bring top-4 open primaries and approval voting to Missouri elections. The Center for Election Science is a 501(c)(3) nonprofit organization focused on education, implementation, and organizing on behalf of approval voting initiatives on a national scale. Constitutional revision commissions, legislators, policymakers, and other key stakeholders at every level of government regularly rely on our expertise in the area of voting methods generally, and on the topic of approval voting specifically.

We are well-versed in the costs associated with electoral reform in Missouri. That is because, from 2019 to 2021, we partnered with a coalition to implement approval voting for the first time in state history in the City of St. Louis. Previously, St. Louis often elected leaders with less than 40% of the vote in the party primary, and no competitive general election. This left politicians with no mandate to govern, giving special interests greater ability to wield undue influence in city politics. To end this, the coalition led a community-wide listening and policymaking process that resulted in the formation of Proposition D. With Prop D, St. Louisans sought to move the city to open municipal primaries, using approval voting, where the top two vote-getters would move to the general election. In November 2020, Prop D passed with an overwhelming 68% support. With that new system in place, in March of 2021, the City St. Louis held the first approval voting election in Missouri history.

The City of St. Louis saw that the adoption of approval voting added $0 to the regular election implementation costs. Essentially, it cost the same to run as any previous city election. That is because approval voting is compatible with all existing machines in each of the 116 election authorities in Missouri. Approval voting uses the same mechanism as many school boards where you can vote for multiple candidates, so the software is also widely used in current election authorities.

For example, today in many places in Missouri voters can "Vote for Two" when two seats are open. These are called bloc plurality elections. To turn a plurality election into an approval voting election, administrators would simply adjust the machines to allow voters to vote for as many as they wish, count the votes, and select the winner(s) with the most votes.

Based on this analysis, the fiscal impact of initiative 2022-058 for purchasing approval voting capable equipment will be $0. The only associated costs would be for discretionary education, which varies from locale to locale. According to the Board of Election Commissioners for the City of St. Louis, they spent between $0-$1,000 on additional voter education for the March 2021 election. Again, they spent the same as they usually spend. That's because they simply adjusted the posters and other educational materials that would normally be printed. We encourage you to contact the Board of Election Commissioners for the City of St. Louis, as they will be able to provide you with even more precise information regarding the final cost of voter education.

Voter education costs are completely up to the discretion of each locale implementing approval voting. When thinking about what voter education cost may be in Missouri, it's worth considering a few elements. First, approval voting already exists in Missouri in St. Louis, and similar methods like bloc plurality (re: school board) are commonplace to voters throughout the state. Second, approval voting is the simplest and most intuitive alternative voting method being considered broadly today in the U.S. It's just easier for voters to grasp than other ways of voting being proposed. Finally, it's reasonable to believe that if election officials feel that additional voter education is needed due to implementation of approval voting, that it could be easily integrated into their regular voter education programming with little to no fiscal impact.

Auditor Galloway, thank you for your consideration of this letter as you prepare initiative 2022-058 for the people of Missouri to review. If you have any questions, please contact me any time at Chris@electionscience.org

Sincerely,

Chris Raleigh
Director of Campaigns & Advocacy

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College,** and the **Clay County Board of Election Commissioners.**

Fiscal Note Summary

State and local governmental entities estimate no savings, one-time costs of at least $2.1 million, and ongoing costs of at least $90,000 each primary election, $95,000 each general election, and $60,000 for all other elections. There could also be additional costs for local government vacancy elections.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 25, 2021

RECEIVED
AUG 25 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Sherri Talbott regarding a proposed constitutional amendment to Article IX (2022-057)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Sherri Talbott on August 25, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

22-057

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 AUG 25 AM 8:3

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Affiant (Person obtaining signatures)

Printed Name of Affiant

Street Address of Affiant

City, State and Zip Code of Affiant

Signature of Notary

Address of Notary

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article IX of the Constitution is revised by amending Section 3(a), and adopting 1 new section to be known as Article IX, Section 2(c) to read as follows:

Section 2(c). The board shall implement and supervise a uniform method of evaluation and accreditation that shall apply to all public elementary and secondary schools receiving their funding under Section 3(a) of this Article.

Section 3(a) All appropriations by the state for the support of free public schools and the income from the public school fund shall be paid at least annually and distributed according to law. In order to effectuate the purposes of Section 1(a) of this article, and to preserve available general revenue for the education of students in public schools, the state shall not appropriate or pay public funds for any program, nor authorize or implement vouchers or tax credits, with the purpose or effect of providing tuition subsidies or subsidizing other costs of student attendance or employment at non-public elementary or secondary schools, including implementing any program authorized by legislation previously enacted. This section does not prohibit:

i) income tax deductions or exclusions from adjusted gross income that, pursuant to state taxation law, merely duplicate federal income tax deductions, including charitable deductions, or exclusions from adjusted gross income;

ii) any state income tax credit, deduction, or exclusion from adjusted gross income that does not have the purpose or effect of providing tuition subsidies or subsidizing other costs of student attendance or employment at non-public elementary or secondary schools;

iii) payment of the state's costs related to the placement of a special education student in a private facility as mandated by federal law;

iv) payments made pursuant to a voluntary contract between a public school district and a non-public elementary or secondary school under which the non-public entity provides services to the public school district for the benefit of a student concurrently enrolled in the district; or

v) payment of costs related to the education of wards of the state, children in foster care or pursuant to court order.

The term "tax credit" as used herein includes a tax incentive which allows eligible taxpayers to subtract the amount of the tax credit they have accrued from taxes owed to the state. The term "voucher" as used herein includes government funding for students to attend nonpublic elementary or secondary schools.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-057)

Subject

Initiative petition from Sherri Talbott regarding a proposed constitutional amendment to Article IX. (Received August 25, 2021)

Date

September 14, 2021

Description

This proposal would amend Article IX of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Amy L. Blouin, President & CEO, Missouri Budget Project provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that they could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated the proposed initiative petition may negate the provisions of HB 349 and SB 86 (Sections 135.712 to 135.719 and sections 166.700 to 166.720) passed during the 2021 Legislative Session. HB 349 and SB 86 created a tax credit that begins at $25 million and will grow to $50 million annually when the program is fully implemented.

The Coronavirus Response and Relief Supplemental Appropriations (CRSSA) Act provides funds for the Emergency Assistance to Nonpublic Schools (EANS) program. The purpose of the EANS program is to provide emergency services or assistance to nonpublic schools to respond to the COVID-19. Section 312 of this Act requires the State Education Agency to administer the EANS program. In Missouri, this is the Department of Elementary and Secondary Education (DESE). An additional allocation was also made to nonpublic schools as part of the American Rescue Plan (ARP).

Missouri will receive $67,550,224 of the EANS funds from CRSSA and $68,641,868 from ARP to provide services and assistance to nonpublic schools. This petition could impact the distribution of these funds if Section 3(a) were interpreted to prevent the legislature from appropriating these funds to DESE for the purpose of providing the funds to nonpublic schools. However, these funds have either already been appropriated (CRSSA) or are anticipated to be appropriated (ARP) during the 2022 Legislative Session.

As of 9-3-21, below is the breakdown of CRRSA - EANS I funds that has been distributed in FY21 and FY22.

	FY2021	FY2022	GRAND TOTAL
EANS I (Non Public Schools)	$2,719,128	$6,077,408	$8,796,536

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article IX.

Officials from the **Department of Revenue** indicated:

Revenue Impact

Section 2(c) in regards to the creation of an accreditation program for elementary and secondary schools will not fiscally impact their department.

Section 3(a) appears to be stopping any current or future school voucher program or school voucher tax credit program. It appears it would stop the HB 349/SB 86's Missouri Empowerment Scholarship Accounts Program". HB 349/SB 86 do not authorize vouchers, but, arguably, it implements tax credits with "the effect" of providing tuition subsidies and subsidizing other costs of a student attending non-public schools.

Section 135.713.1 provides a credit (of 100% of the contribution) to a taxpayer making a qualifying contribution to an educational assistance organization. Section 166.705.1 allows the parent of a qualified student to establish a scholarship account by entering into an agreement with an educational assistance organization, and it further provides that the qualified student "shall receive a grant, in the form of moneys deposited in accordance with section 135.714, in the qualified student's Missouri empowerment scholarship account." Per section 166.705.1(4), moneys in the scholarship account may only be used for:

> (a) Tuition or fees at a qualified school; (b) Textbooks required by a qualified school; (c) Educational therapies or services from a licensed or accredited practitioner or provider including, but not limited to, licensed or accredited paraprofessionals or educational aides; (d) Tutoring services; (e) Curriculum; (f) Tuition or fees for a private virtual school; (g) Fees for a nationally standardized norm-referenced achievement test, advanced placement examinations, international baccalaureate examinations, or any examinations related to college or university admission; (h) Fees for management of the Missouri empowerment scholarship

account by firms selected by the educational assistance organization; (i) Services provided by a public school including, but not limited to, individual classes and extracurricular programs; (j) Computer hardware or other technological devices that are used to help meet the qualified student's educational needs and that are approved by an educational assistance organization; (k) Fees for summer education programs and specialized after-school education programs; (l) Transportation costs for mileage to and from a qualified school.

Looking at this list of eligible uses of the grant money (which comes from donations that earn credits), it appears that the credits allowed under HB 349/SB 86 have the "effect of providing tuition subsidies or subsidizing other costs of student attendance or employment at non-public elementary or secondary schools."

The Empowerment program is currently set to begin on July 1, 2022 and has a starting cap of $25 million annually. The cap however can be increased by the CPI annually until reaching $50 million.

It should be noted that this petition would not be voted on until November 2022 and not be certified until December 2022 with an effective date of January 1, 2023 if adopted by the voters. Therefore their department notes the first year of Empowerment tax credits would be issued prior to this proposal stopping the credits. Therefore if adopted this would save the state the $25 million annually starting in fiscal year (FY) 2024. This would be a savings to general revenue of the $25 million annually.

This initiative petition prohibits the state from appropriating anything, paying for any program, or authorizing/implementing any voucher or credit. Their department is not aware of any other tax program that is appropriated, or any tax program the state pays for, or any tax credits, which will be impacted by this proposal.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department, Director's Office.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal addresses education tax credits. This proposal should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal addresses uses of education tax credits.

The proposal does not carry a financial impact for the Office of Administration.

This proposal would prevent the authorization of state tax credits for private education costs. For the purpose of this fiscal note, Budget & Planning (B&P) assumes that if voter approved in November 2022, this proposal would go into effect January 1, 2023.

This proposal would prevent the authorization of all state tax credits that used to provide tuition or cost subsidies for students and staff at non-public elementary or secondary schools. This proposal would not prohibit tax deductions used for similar purposes.

Therefore, B&P notes that only one tax credit program would fall under this proposal. The Empowerment Scholarship program provides a tax credit for contributions made to scholarship accounts for the purpose of students attending a non-public elementary or secondary school. This program is scheduled to begin July 1, 2022 with an annual authorization limit of $25 million. The authorization cap is increased over time by the rate of inflation, until total allowable authorizations reach $50 million.

B&P notes that the Empowerment Scholarship program would begin July 1, 2022, while this proposal would not begin until January 1, 2023. For the purpose of this fiscal note, B&P will assume that the full $25 million in credit authorizations for the first year would occur between July 2022 and December 2022. Therefore, this proposal could increase general revenue by $25 million beginning with FY 2024.

This proposal would also prevent the appropriations of public funds for subsidizing the costs of students and employment at non-public elementary and secondary schools. This may impact the American Recovery Plan Emergency Assistance for Non-Public Schools. B&P defers to the Department of Elementary and Secondary Education for this impact.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2

RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated:

Currently, pursuant to Truly Agreed to and Finally Passed (TAFP) House Bill (HB) 349, their office is tasked with numerous duties pertaining to the Missouri Empowerment Scholarship Program, which specifies a taxpayer may claim a tax credit for any qualifying contribution to an educational assistance organization, such contributions to be used to fund tuition scholarships for children to attend public or non-public elementary or secondary schools.

TAFP Senate Bill (SB) 86 caps the program at $25 million in qualifying contributions in its first calendar year and specifies their office may use up to 4% of the total qualifying contributions received in a calendar year for marketing and administrative expenses or other costs incurred in administering the program. Their office shall annually adjust the cap for inflation, such annual increases shall cease when the amount of tax credits reach $50 million. Thus, assuming maximum contributions and that the program eventually reaches the $50 million cap, the maximum their office could receive in the future is $2,000,000 for marketing and administrative purposes.

Assuming the maximum amount of qualifying contributions are received in the first year ($25 million), 4% of that would be $1,000,000.

Because this IP, if passed, would render these provisions of HB 349 and SB 86 unconstitutional, the fiscal impact to their office would be anywhere from $0 - $1,000,000 in the first year, depending on the amount of qualifying contributions received in the first year. Once inflation adjustments increase the program cap to the maximum, the maximum fiscal impact to their office would be up to $2,000,000, again depending on the amount of qualifying contributions received from participating taxpayers. The fiscal impacts provided relate to reduced revenues and reduced costs.

FYSA (For your situational awareness) -- While their office was only asked to review for any fiscal impact to their office, because this IP directly impacts the Missouri Empowerment Scholarship Program that was enacted in HB 349 and SB 86, the fiscal notes for those bills may include pertinent information regarding the potential fiscal impact to other state entities.

Officials from **Clay County** indicated they estimate no fiscal impact on their county as a result of this measure.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no negative fiscal impact to their college.

Amy L. Blouin, President and CEO, Missouri Budget Project provided the following information:

MBP
MISSOURI BUDGET PROJECT

The Honorable Nicole Galloway, CPA
P.O. Box 869
Jefferson City, MO 65102
Via email to: fiscalnote@auditor.mo.gov

RE: Fiscal Analysis for Initiative Petition 2022-057

Dear Auditor Galloway,

Please accept the following comments on the fiscal impact of the Taxpayers Accountability Initiative Petition 2022-057.

Petition 2022-057 would amend Article IX, Section 3(a) regarding state support of free public schools by adding a prohibition on the expenditure of public funds for vouchers or tax credits that have the purpose of subsidizing costs of attendance or employment at non-public schools. The petition seeks to prohibit future expenditures for these purposes but would also prohibit any related tax credit programs enacted by previous legislation, including House Bill 349 and Senate Bill 86 which were approved by lawmakers in the 2021 State Legislative Session.

House Bill 349 and Senate Bill 86 would enact tax credits, paid for by a reduction in state general revenue, for the precise purpose of creating subsidies for attendance at non-public schools (vouchers). The tax credits are capped at $50 million annually when fully implemented.

Because Petition 2022 – 057 would prohibit public expenditures for this tax credit/voucher program, we can assume passage of the petition would result in **$50 million in general revenue savings annually.**

The Petition would also prohibit any additional increases in these credits and/or creation of new credits or vouchers that would use public funding for the same purpose. Trends from other states that have enacted similar credits/vouchers indicate that their expense tends to grow significantly over time, some examples:

- **Indiana** enacted a voucher program in the 2011-2012 school year that initially cost $15.5 million. But, by the 2017-2018 school year the voucher program grew to a cost of $154 million – nearly 10 times the original cost.[1]

[1] Georgia Budget and Policy Center, "Shifting Public Funds to Private Schools: High Costs, Poor Track Record", April 26, 2018

- **North Carolina's** "Opportunity Scholarship" was initially capped at $10.8 million per year. Lawmakers approved legislation in 2016 that will increase the $144.8 million per year – more than 13 times the original cost.[2]
- Total spending on all voucher programs in **Ohio** increased from about $25 million in fiscal year 2006 to over $250 million in 2016 – 10 times the original costs.[3]

These trends indicate that the general revenue savings from Petition 2022-057 are also likely to grow over time as lawmakers approve increases in the caps as other states have done. As a result, the **general revenue savings from Petition 2022-57 will most likely well exceed $50 million annually**.

We appreciate your consideration of this information.

Sincerely,

Amy L Blouin
President & CEO
Missouri Budget Project
ablouin@mobudget.org

[2] North Carolina Justice Center, "Legislative changes to voucher program will likely drain $272 million from NC over next decade", December 21, 2020
[3] Policy Matters Ohio, "Expanding vouchers chips away at public schools", June 5, 2017

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities expect saving of $25 million to $50 million annually. Local governmental entities estimate no costs or savings.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 17, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Andrew Brain regarding a proposed constitutional amendment to Article VIII (2022-056)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Andrew Brain on August 17, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

22-056

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 AUG 17 AM 9:04
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

NOTICE: The proposed amendment revises Article VIII of the Constitution by adopting six new Sections to be known as Article VIII, Sections 24, 25, 26, 27, 28, 29, and 30.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article VIII of The Constitution is revised by adopting six new Sections to be known as Article VIII, Sections 24, 25, 26, 27, 28, 29, and 30 to read as follows:

Section 24. 1. Every voting machine used to conduct an election in the State of Missouri shall be tested and certified as secure prior to each election in which the machine will be used. Such testing and certification shall meet all federal standards.
2. Every voting machine used to conduct an election in the State of Missouri shall produce an individual, permanent paper record for each vote cast, which shall be made available for inspection and verification by the voter at the time the vote is cast. Such individual, permanent paper record shall be preserved for use in any election audit.
3. The candidate or their designee shall have the right to be present whenever paper ballots or the permanent paper records produced by electronic voting machines are counted, audited, or placed in storage.
4. Nothing in this Section shall be construed in such a way as to limit overseas servicemembers' access to secure voting options.

Section 25. 1. Beginning at the August 2024 primary election, and notwithstanding any other provision of law to the contrary, primary elections for all statewide offices, members of the Missouri General Assembly, U.S. Senator, U.S. Representative, elective offices of county governments, circuit and associate circuit judges who are not selected under Article V, Section 25 of the Missouri Constitution, and all public offices within any political subdivision that are filled through partisan elections, shall be open primaries where the four candidates for each office receiving the most votes advance to the general election.
2. Primary ballots for all statewide offices, members of the Missouri General Assembly, U.S. Senator, U.S. Representative, elective offices of county governments, circuit and associate circuit judges who are not selected under Article V, Section 25 of the Missouri Constitution, and all public offices within any political subdivision that are filled through partisan elections, shall meet the following criteria:
   (1) All candidates for an office shall appear on a single ballot.
   (2) Primary ballots shall include space for a write-in candidate for such offices.
   (3) Should any primary ballot include elected offices for established political parties, the inclusion of which requires printing separate primary ballots for each established political party, all candidates for each public office filled through processes described in Sections 25 and 26 of this Article shall appear on the primary ballots of each established political party regardless of any candidate's political affiliation.
3. In the primary election for all statewide offices, members of the Missouri General Assembly, U.S. Senator, U.S. Representative, all elective offices of county governments, circuit and associate circuit judges who are not selected under Article V, Section 25 of the Missouri Constitution, and all public offices within any political subdivision that are filled through partisan elections, a qualified voter shall be permitted to cast a vote for any candidate for whom that voter is otherwise eligible to vote, regardless of candidates' party affiliations or lack thereof.
4. The four candidates for each office receiving the most votes in the primary election shall advance to the general election for that office. Only those candidates shall appear on the general election ballot.
5. If two or more candidates receive an equal number of votes for the same office, such that there is a tie for fourth place, the officer with whom such candidates filed their declarations of candidacy shall determine the fourth place candidate whose name will appear on the general election ballot by lot, after notifying each candidate who received an equal number of votes of the time and place of such drawing at least five days before the drawing. Any such candidate

who received an equal number of votes may decline to have his or her name put into such drawing. The name of any candidate who declines to have his or her name put into such drawing shall not appear on the general election ballot.

Section 26. 1. Beginning at the November 2024 general election, and notwithstanding any other provision of law to the contrary, general elections for all statewide offices, members of the Missouri General Assembly, U.S. Senator, U.S. Representative, elective offices of county governments, circuit and associate circuit judges who are not selected under Article V, Section 25 of the Missouri Constitution, and all public offices within any political subdivision that are filled through partisan elections, shall be approval voting elections in which a qualified voter shall be permitted to select as many candidates as they approve of for each office, and the candidate for each office receiving the most votes shall be elected.
2. Results for each approval voting election shall be tabulated and presented as the total number of votes for a candidate divided by the total number of ballots cast by all qualified voters in that election.
3. The ballot shall be simple and easy to understand, consistent with best practices.
4. Instructions on the general election ballot shall include the following statement for each race: "Vote for AS MANY names as you approve."
5. Beginning at least ninety days before the first election utilizing the approval voting system, the Secretary of State and local election authorities shall conduct a voter education campaign to familiarize voters with the approval voting system.

Section 27. Beginning August 1, 2024, the primary and general election processes described in Sections 25 and 26 of this Article shall apply to every vacancy that occurs in a statewide office, an office of a member of the Missouri General Assembly, or an office of a member of either house of the United States Congress that the law requires is to be filled through a special election.

Section 28. Notwithstanding Section 2(b) of Article XII of this constitution, any amendment affecting Sections 24, 25, 26, 27, 28, 29 or 30 of this Article shall be submitted to the electors for their approval or rejection at a general election, and not at any other election.

Section 29. The Secretary of State shall issue rules and regulations necessary to implement Sections 24 to 28 of this Article. No rule or portion of a rule promulgated under the authority of such Sections shall become effective unless it has been promulgated pursuant to the requirements provided by law.

Section 30. If any provision of Sections 24, 25, 26, 27, 28, or 29, or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

RECEIVED
AUG 0 3 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 3, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Article XIV, version 3 (2022-055)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on August 3, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-055

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I,_____ being first duly sworn, say (print names of signers)

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

RECEIVED
2021 AUG -3 AM 9:30
SECRETARY OF STATE

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article XIV of the Constitution is revised by adopting one new section to be known as Article XIV, Section 2 to read as follows:

Section 2.

1. Purpose

This section is intended to permit the safe and legal use of cannabis by adults over the age of twenty-one and to reasonably regulate the cultivation, processing, manufacturing, and distribution of cannabis. The people of Missouri have a right to enjoy the benefits of their labor free from unreasonable regulation. This section creates a legal, regulated, and taxed cannabis industry so Missouri businesses can participate in the growing market, and the state can reduce the burden on the budget and criminal justice system caused by the prosecution and incarceration of non-violent cannabis possession and distribution.

This section is intended to make only those changes to Missouri laws that are necessary to protect consumers and businesses in the cannabis industry from civil and criminal penalties; and to allow for the responsible consumption of cannabis, combat illegal underage consumption of cannabis, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed cannabis cultivators, manufacturers, transporters, hospitality establishments, and retailers. This section is not intended to allow for the unregulated public use of cannabis, driving or operating heavy machinery while intoxicated, the use of cannabis in the workplace, or the use of cannabis by persons under twenty-one years of age. This section is not intended to repeal or replace the medical marijuana market.

2. Adult Use of Cannabis by Consumers.

(1) Any person over twenty-one years of age may possess the following amounts of cannabis at any one time:

(a) up to eight ounces of dried unprocessed flower;

(b) up to twenty-eight grams of concentrated resin or extract; and

(c) up to four thousand milligrams of tetrahydrocannabinol in cannabis-infused products.

(2) No individual who is under twenty-one years of age may possess cannabis in any amount unless such individual is in possession of a medical cannabis patient or primary caregiver license issued pursuant to Article XIV Section 1.

(3) A person over twenty-one years of age may cultivate up to twenty-five square feet of flowering canopy of cannabis for adult use in any space owned or leased by said consumer. The space in which cannabis for adult use is being cultivated must be secured against entry by unauthorized individuals including individuals under twenty-one years of age. Such cannabis shall not be provided for sale to any individual but may be sold to a licensed cultivation, manufacturing, or retail facility.

(4) For the purposes of this section, "cannabis" means *Cannabis indica, Cannabis sativa, and Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute cannabis, hemp, or marijuana. “Cannabis” includes resin extracted from the plant and products containing cannabis. "Cannabis" does not include industrial hemp as defined by Federal law or commodities or products manufactured from industrial hemp as defined by Federal law. “Cannabis” does not include parts of the plant that do not contain tetrahydrocannabinol (THC) or the soil or substrate in which the plants were grown.

2. Regulation

(1) The division of alcohol and tobacco within the Missouri department of public safety is hereby authorized to grant or deny state licenses for the cultivation, manufacture, transportation, on-

premises consumption, and sale of cannabis and cannabis containing products and paraphernalia, for any purpose other than those specified in section 1 of this article.

(2) The division is further authorized to promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, transportation, on-premises consumption, and sale of cannabis and cannabis containing products and paraphernalia for any purpose other than those specified in section 1 of this article, and for the enforcement of this section, so long as access to cannabis is not restricted unreasonably and such rules are reasonably necessary for consumer safety or to restrict access to cannabis to only persons over twenty-one years of age.

(3) A rule or regulation shall be presumed to unreasonably restrict access to cannabis if imposes restrictions that are greater than those imposed on the manufacture and sale of alcoholic beverages.

(4) If the division fails to promulgate rules and issue licenses specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(5) The division may charge application or licensure fees to cover the cost of administering the provisions of this section. However, any fees charged shall not exceed two thousand five hundred dollars per license or license application in any single fiscal year. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency.

3. Licensure and Certification

(1) Applications for any cultivation, manufacturing or retail facility license, where the product being cultivated, manufactured, or sold at retail contains cannabis, shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they are able to meet or exceed the requirements of facilities in the regulations promulgated by the division;

(b) All owners have submitted to a fingerprint background check performed not more than ninety days prior to the submission of the application and have not been convicted of any dangerous felonies or for the distribution of controlled substances to a minor;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state; and

(d) The applicant certifies that they will not begin operations until after a commencement inspection as required by the division.

(2) Applications for any entity seeking to be certified to test or transport cannabis, or provide for on-premises consumption of cannabis, shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they are able to meet or exceed the certification standards in the regulations promulgated by the division;

(b) All owners have submitted to a fingerprint background check performed not more than ninety days prior to the submission of the application and have not been convicted of any dangerous felonies or for the distribution of controlled substances to a minor;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state; and

(d) In the case of testing certification, the applicant certifies that they will not begin operations until after a commencement inspection as required by the division.

(3) The division shall begin accepting license and certification applications not later than August 1, 2023. In order to facilitate the initial costs of regulation, the division may accept application fees beginning January 15, 2023 and shall apply such fees to applications submitted after August

1, 2023. Applications for licenses and certifications under this section shall be approved or denied by the division no later than ninety days after their submission. If the division fails to carry out its nondiscretionary duty to approve or deny an application within ninety days, the application or certification is deemed granted for one year or until revoked for good cause.

(4) There shall be no limit on the number of licenses issued by the division.

(5) A single entity may hold multiple licenses or certifications and may operate under such licenses at a single location. However, an on-premises consumption license shall not be issued for a location in which a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility is in operation.

3. Taxation

(1) Application and renewal fees collected by the division shall be used for the administration of this section. If such fees are insufficient to provide for the administration of this section, the division may request additional appropriation through the usual appropriation process.

(2) A tax is hereby levied upon the retail sale of cannabis for adult use sold at cannabis retail facilities within the state.

(a) The tax shall be at a rate of seven and one-half percent of the retail price.

(b) The tax shall be collected by each licensed cannabis retail facility and paid to the department of revenue. After retaining no more than two percent of the amount collected for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the general revenue fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(c) Such tax shall not be levied on wholesale sales of cannabis for adult use or any cannabis which is transferred from a cannabis retail facility to a cannabis cultivation or manufacturing facility.

(3) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of cannabis for adult use.

(4) A local government may impose a retail sales taxes on the retail sale of cannabis for adult use. Such taxes shall be imposed in the same way as provided for other retail sales taxes in law. Local taxes imposed on the retail sale of cannabis for adult use shall not exceed those imposed by the same jurisdiction on the retail sale of alcoholic beverages or other retail sales whichever is higher.

6. Public Safety

(1) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of cannabis. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show the person was actually under the influence.

(2) The legislature may pass criminal statute related to the possession, delivery, or distribution of cannabis in excess of the limits provided for in this section without the appropriate license. However, in no case shall the possession, delivery, or distribution of cannabis in an amount less than two times the limits provided for in this section be deemed a felony unless such delivery or distribution was to a person under twenty-one years of age.

(3) Any individual convicted for a crime related to the possession, delivery, or distribution of cannabis, other than a dangerous felony or the delivery or distribution of cannabis to a person under seventeen years of age and more than two years younger than the person being charged, may file for release from custody and expungement of their criminal record in the jurisdiction in which the conviction occurred. Such release from custody shall be expedited and shall be granted unless the person seeking release is incarcerated for additional crimes. Such expungement shall be granted as a matter of right and shall not affect an individual's ability to seek expungement of other

offenses under the laws of this state. The supreme court shall make available to the public free of charge forms for a release from custody or the expungement of such offenses. The filing fee for a motion or new cause of action under this subsection shall be no more than the filing fee for actions brought in the small claims court of the same jurisdiction.

(4) The presence or the smell of cannabis shall not be sufficient probable cause for a law enforcement officer to detain or search a person for reasons other than a suspected intoxication offense, or to impound or search the vehicle, residence, or other property of a consumer. Any search or arrest warrant issued for violations of this section or other cannabis laws not in conflict with this section shall require evidence of the violation and shall not be issued on the basis of the presence of cannabis alone. No search or arrest warrant shall be issued based on violations of this section or other cannabis laws not in conflict with this section that would allow law enforcement officers to enter a premises without first knocking and announcing their presence and purpose.

7. Local Control

(1) Local governments shall develop and adopt ordinances and policies related to cannabis licensees no later than June 30, 2023. The local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees; create an undue burden on access to consumers; or act to undermine the purposes of this section. An ordinance or policy shall be presumed to impose excessive fees or an undue burden if it imposes fees higher than or restrictions greater than those imposed on the manufacture and sale of alcoholic beverages.

(2) If the local government fails to adopt ordinances and policies specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

8. Other Provisions

(1) All cannabis sold in Missouri shall be tested by a laboratory certified under the laws and regulation of Missouri or the similar laws and regulations of another state if interstate transportation of cannabis and cannabis containing products is not illegal under Federal law.

(2) Individuals and entities who are engaging in the acts permitted by this section and in compliance with division regulations and other provisions of law, shall not be subject to criminal or civil liability or sanctions under Missouri law including but not limited to disciplinary action against a professional license, revocation of probation or parole, denial of public assistance programs or public services, or denial of a license to operate a vehicle, watercraft, or other equipment.

(3) It is the public policy of the state of Missouri that contracts related to cannabis should be enforceable. It is the public policy of the state of Missouri that no contract entered into by any individual or entity shall be unenforceable on the basis that activities related to cannabis may be prohibited by federal law.

(4) No mandatory reporter under the laws of this state shall be required to report the use of cannabis by a parent or prospective parent unless such use is in violation of this section or the parent is actively endangering the health and safety of a child. A prospective foster or adoptive parent shall not be discriminated against for their use of cannabis for non-medical purposes unless such use is in violation of this section or other provisions of law not in conflict with this section.

(5) No elected official shall interfere directly or indirectly with the division's obligations and activities under this section.

9. Severability

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

RECEIVED
AUG 0 3 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 3, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Article XIV, version 2 (2022-054)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on August 3, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-054

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I,_____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.						
2.						
3.						
4.						
5.						
6.						
7.						
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9.						
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2021 AUG -3 AM 9:29
CHRIS KOSTER
SEC. OF STATE

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article XIV of the Constitution is revised by amending Section 1, and adopting one new section to be known as Article XIV, Section 2 to read as follows:

Section 1. 1. Purposes.

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the [limited] legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

2. Definitions.

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the department of health and senior services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" or "marihuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp [containing a cropwide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis] as defined by federal law, or commodities or products manufactured from industrial hemp as defined by federal law.

(6) "Marijuana-infused products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(7) "Medical marijuana cultivation facility" means a facility licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

(8) "Medical marijuana dispensary facility" means a facility licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

(9) "Medical marijuana-infused products manufacturing facility" means a facility licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

(10) "Medical marijuana testing facility" means a facility certified by the department to acquire, test, certify, and transport marijuana.

(11) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(12) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(13) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.

(14) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department. Any health care provider licensed under the laws of the state may also serve as a primary caregiver. A qualifying patient may have up to three primary caregivers.

(15) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory

bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(16) "Qualifying patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

3. Creating Patient Access to Medical Marijuana.

(1) In carrying out the implementation of this section, the department shall have the authority to:

(a) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and for the enforcement of this section so long as patient access is not restricted unreasonably and such rules are reasonably necessary for patient safety or to restrict access to only licensees and qualifying patients.

(c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver to ensure that no medical marijuana grown by a medical marijuana cultivation facility or manufactured by a medical marijuana-infused products manufacturing facility is sold or otherwise transferred except by a medical marijuana dispensary facility. The department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities which demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another entity with a transportation certification. The department shall develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation of marijuana. Any entity licensed or certified pursuant to this section shall be allowed to transport cannabis.

(f) The department may charge a fee not to exceed $5,000 for any certification issued pursuant to this section.

(g) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the department under this section;

[(h) Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section, which scoring shall be limited to an analysis of the following:

(i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers;

(ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income qualifying patients;

(iii) site security;

(iv) experience in a legal cannabis market;

(v) in the case of medical marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience;

(vi) the potential for positive economic impact in the site community;

(vii) in the case of medical marijuana cultivation facilities, capacity or experience with agriculture, horticulture, and health care;

(viii) in the case of medical marijuana dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;

(ix) in the case of medical marijuana-infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and

(x) maintaining competitiveness in the marijuana for medical use marketplace.

In ranking applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise regarding these factors. The department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by qualifying patients.]

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the medical marijuana dispensary facility, product display and examination by the qualifying patient and/or primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed or certified pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, [shall] <u>may</u> forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a

fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530;

(i) Security requirements for any premises licensed or certified pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a medical marijuana dispensary facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. The department shall not require any medical marijuana or medical marijuana-infused products to be tested more than once prior to sale.

(4) The department shall issue rules or emergency rules to provide for the certification of and standards for medical marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as medical marijuana testing facilities. No medical marijuana testing facility shall be owned by an entity under substantially common control, ownership, or management as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

(5) The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation

facilities, medical marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

(7) Within one hundred eighty days of December 6, 2018, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within two hundred ten days of December 6, 2018, the department shall begin accepting applications for such identification cards.

(8) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana cultivation facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five medical marijuana dispensary facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana-infused products manufacturing facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(11) Any applicant for a license authorized by this section may prefile their application fee with the department beginning 30 days after December 6, 2018.

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to [six flowering marijuana plants] <u>fifty square feet of canopy space</u> for the [exclusive use] <u>benefit</u> of that qualifying patient. The card shall

be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of [one hundred] twenty-five dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. In no case shall any qualifying patient cultivate more than fifty square feet of canopy space regardless of the number of primary caregivers assigned to said qualifying patient.

(13) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty-day period, provided that limit is not less than four ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the department.

(14) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty-day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. In no case shall the total amount of medical marijuana attributed to a single qualifying patient in the possession of multiple primary caregivers exceed the limit set by the department. Qualifying patients cultivating marijuana for medical use may possess up to a [ninety-day] one year supply, so long as the supply remains secured on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by [imprisonment of up to one year and] a fine of up to two thousand dollars.

[(15) The department may restrict the aggregate number of licenses granted for medical marijuana cultivation facilities, provided, however, that the number may not be limited to fewer than one license per every one hundred thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department may restrict the aggregate number of licenses granted for marijuana-infused products manufacturing facilities, provided, however, that the number may not be limited to fewer than one license per every seventy thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department may restrict the aggregate number of licenses granted for medical marijuana dispensary facilities, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018. Future changes to the boundaries of or the number of congressional districts shall have no impact.]

(18) The department shall begin accepting license and certification applications for medical marijuana dispensary facilities, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after December 6, 2018. Applications for licenses and certifications under this section shall be approved or denied by the department no later than one hundred fifty days after their submission. If the department fails to carry out its nondiscretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(19) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the department. The department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor

index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the department fails to deny and fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their qualifying patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(20) Primary caregivers under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(21) All marijuana for medical use sold in Missouri shall be cultivated in a licensed medical marijuana cultivation facility located in Missouri.

(22) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a medical marijuana-infused products manufacturing facility.

(23) The denial of a license, license renewal, or identification card by the department shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the department shall be subject to judicial review as provided by law.

(24) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(25) The department shall not have the authority to apply or enforce any rule or regulation that would impose an undue burden on any one or more licensees or certificate holders, any qualifying patients, or act to undermine the purposes of this section.

4. Taxation and Reporting.

(1) A tax is levied upon the retail sale of marijuana for medical use sold at medical marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and paid to the department of revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri veterans' health and care fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund", which shall consist of taxes and fees collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount not to exceed twenty percent of net deposits which is necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies

necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri veterans commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri service officer's program, and other services for veterans approved by the commission, including, but not limited to, health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri veterans commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from, and in addition to, any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

(6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

5. Additional Patient, Physician, Caregiver and Provider Protections.

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the department, and transportation of marijuana from a medical marijuana dispensary facility to the qualifying patient's residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid qualifying patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri state board of registration for the healing arts, or its successor agency, for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider, including individuals licensed under chapter 335 or 337 or their successor statutes, shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any

accreditation or licensing board or commission for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A medical marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by nonemancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation [of up to six flowering marijuana plants per patient] in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

6. Legislation.

Nothing in this section shall limit the general assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section.

7. Additional Provisions.

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or entity with a transportation certification shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a nonviolent crime [for which he or she was not incarcerated and that is more than five years old]; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The department may consult with and rely on the records, advice and recommendations of the attorney general and the department of public safety, or their successor entities, in applying this subdivision.

(3) All medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility licenses, entities with medical marijuana testing facility certifications, and entities with transportation certifications shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) No medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including loss of license.

(5) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana", or a "Marijuana-Infused Product". Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty.

(6) No individual shall serve as the primary caregiver for more than [three] <u>ten</u> qualifying patients.

(7) No qualifying patient shall consume marijuana for medical use in a public place, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(8) No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and, if applicable, loss of their identification card, certificate, or license for up to one year.

(9) All qualifying patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. [Two qualifying] Qualifying patients and care givers, who [both] hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. No shared facility may contain more than five thousand square feet of canopy space without obtaining a medical marijuana cultivation facility license. [No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.]

(10) No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

(11) Unless allowed by the local government, no new medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality.

(12) Unless superseded by federal law or an amendment to this Constitution, a physician shall not certify a qualifying condition for a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic, or in another commonly used format. A qualifying patient must obtain a new physician certification at least annually.

(13) A physician shall not issue a certification for the medical use of marijuana for a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. [Only a parent or guardian may serve as a primary caregiver for a nonemancipated qualifying patient under the age of eighteen.] At least one of the primary caregivers for a nonemancipated qualifying patient under the age of eighteen must be a parent or legal guardian. Only the qualifying patient's [parent or guardian] primary caregiver shall purchase or possess medical marijuana for a nonemancipated qualifying patient under the age of eighteen. A [parent or guardian] primary caregiver shall supervise the administration of medical marijuana to a nonemancipated qualifying patient under the age of eighteen.

(14) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(15) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

8. Severability.

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

[9. Effective Date.

The provisions of this section shall become effective on December 6, 2018.]

Section 2.

1. Purpose

This section is intended to permit the safe and legal use of cannabis by adults over the age of twenty-one and to reasonably regulate the cultivation, processing, manufacturing, and distribution of cannabis. The people of Missouri have a right to enjoy the benefits of their labor free from unreasonable regulation. This section creates a legal, regulated, and taxed cannabis industry so Missouri businesses can participate in the growing market, and the state can reduce the burden on the budget and criminal justice system caused by the prosecution and incarceration of non-violent cannabis possession and distribution.

This section is not intended to supplant the medical marijuana market. The medical marijuana market is a necessary and important part of many patients' treatment plans. Care guided by a health care provider is important when cannabis is used in an intensive and therapeutic manner.

This section is intended to make only those changes to Missouri laws that are necessary to protect consumers and businesses in the cannabis industry from civil and criminal penalties; and to allow for the responsible consumption of cannabis, combat illegal underage consumption of cannabis, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed cannabis cultivators, manufacturers, transporters, hospitality establishments, and retailers. This section is not intended to allow for the unregulated public use of cannabis; the operation of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; the use of cannabis in the workplace; or the use of cannabis by persons under twenty-one years of age.

2. Definitions.

(1) "Adult use" means the production, possession, delivery, distribution, transportation, or ingestion of cannabis or a cannabis-infused product, or drug paraphernalia used to ingest cannabis or a cannabis-infused product, by a person over the age of twenty-one for purposes other than those provided for in Article XIV Section 1.

(2) "Cannabis" means *Cannabis indica, Cannabis sativa, and Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute cannabis, hemp, or marijuana. "Cannabis" includes resin extracted from the plant and cannabis-infused products. "Cannabis" does not include industrial hemp as defined by Federal law or commodities or products manufactured from industrial hemp as defined by Federal law. "Cannabis" does not include parts of the plant that do not contain tetrahydrocannabinol (THC) or the soil or substrate in which the plants were grown.

(3) "Cannabis-infused products" means products that are infused with cannabis or an extract thereof and are intended for ingestion other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(4) "Cannabis cultivation facility" means a facility licensed by the division to acquire, cultivate, process, store, package, transport, and sell cannabis to or from a cannabis retail facility, cannabis testing facility, cannabis manufacturing facility, or another cannabis cultivation facility.

(5) “Cannabis hospitality facility” means a facility certified by the division to permit the consumption of cannabis by consumers or qualifying patients on the premises.

(6) "Cannabis manufacturing facility" means a facility licensed by the division to acquire, process, manufacture, produce, store, package, transport, and sell cannabis and paraphernalia used to ingest cannabis as provided for in this section to or from a cannabis retail facility, cannabis testing facility, cannabis cultivation facility, or another cannabis manufacturing facility.

(7) "Cannabis retail facility" means a facility licensed by the division to acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to a consumer, and acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to or from another cannabis retail facility, a cannabis testing facility, cannabis manufacturing facility, or a cannabis cultivation facility.

(8) "Cannabis testing facility" means a facility certified by the division or the division of health and senior services to acquire, test, certify, and transport cannabis.

(9) “Child-Resistant Packaging” means resealable packaging that is opaque and is designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use.

(10) “Consumer” means a natural person over the age of twenty-one.

(11) “Delivery” means the delivery of cannabis from a cannabis retail facility to a consumer.

(12) “Disqualifying felony” means any dangerous felony as defined by the laws of this state, but shall not include any felony which is based on the possession or distribution of cannabis unless such act included the distribution of cannabis to a person under the age of seventeen and more than two years younger than the person being charged.

(13) “Division” means the division of alcohol and tobacco control within the department of public safety, or its successor division.

(14) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(15) "Flowering plant" means a cannabis plant from the time it shows physical signs of flowering or budding out of the nodes of the stem through harvest.

(16) “Historically Marginalized Population” means African American and Hispanic populations.

(17) “Ingest” means any method of introducing cannabis or its chemical components into the human body including but not limited to:

(a) Ingestion of capsules, teas, oils, and other cannabis-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories; or

(e) Consuming cannabis-infused food products.

(18) “Local Government” means a county, township, city, town, village, or municipality.

(19) “Transportation” means the movement of cannabis between licensed facilities. “Transportation” includes the delivery of cannabis to a cannabis retail facility but does not include delivery of cannabis directly to a consumer.

3. Regulation

In carrying out the implementation of this section, the division shall have the authority to:

(1) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, transportation, delivery, and hospitality of cannabis for adult use in accordance with this section; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(2) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, sale, transportation, and delivery of cannabis for adult use, and for the enforcement of this section, so long as access is not restricted unreasonably and such rules are reasonably necessary for consumer safety or to restrict access to only persons over twenty-one years of age. Such rules may include provisions related to:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the division;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary;

(e) Creation of a range of administrative penalties for use by the division;

(f) Prohibition of misrepresentation and unfair practices;

(g) Regulation of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the cannabis retail facility, product display and examination by a consumer, listings in business directories including online directories and phone books, listings in cannabis-related publications and websites, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of identification cards for entities licensed or certified pursuant to this section, including a fingerprint-based criminal background check for owners, officers, and managers of such entities.

(i) Develop such forms, certificates, licenses, and applications, which may be provided in electronic or digital format, as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(j) Requirements for any entity licensed or certified by the division to create and follow security policies that prevent access to cannabis by any person under the age of twenty-one; prevent entry by any person not authorized by the division or the license holder into areas where cannabis is being cultivated, manufactured, or stored; and provide immediate notice to the entity or their designated agent of any attempt by a person to gain unauthorized or illegal access to cannabis or any area where cannabis is being cultivated, manufactured, or stored;

(k) Regulation of the storage of, warehouses for, and transportation of cannabis for adult use;

(l) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(m) The specification of acceptable forms of identification that a cannabis retail facility may accept when verifying a sale;

(n) Labeling and packaging standards that require child-resistant packaging provided that the rules may not unreasonably restrict branding and marketing information that is not misleading and is

designed to make a product recognizable and distinguish it from similar products sold by competitors;

(o) Records to be kept by licensees and the required availability of the records;

(p) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(q) The reporting and transmittal of tax payments;

(r) Authorization for the division of revenue to have access to licensing information to ensure tax payment and the effective administration of this section;

(s) Ensure an adequate supply of cannabis for medical use, including but not limited to regulations that require facilities to maintain an adequate supply of cannabis for medical use based on sales history and requiring contracts to supply cannabis for medical use to take precedence over contracts to supply cannabis for adult use; and

(t) Such other matters as are necessary for the fair, impartial, and comprehensive administration of this section.

(3) Require a seed-to-sale tracking system that tracks cannabis from either the seed or immature plant stage until the cannabis is sold to a consumer to ensure that no cannabis grown by a cannabis cultivation facility or manufactured by a cannabis manufacturing facility is sold or otherwise transferred to a consumer except by a cannabis retail facility or certified delivery entity. The division shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees. The division may coordinate with the department of health and senior services to utilize the same seed to sale tracking system as is used to track marijuana for medical use;

(4) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the division under this section.

(5) If the division fails to promulgate rules and issue licenses specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(6) The division shall not have the authority to apply or enforce any rule or regulation that would require additional fees for applicants, license holders, or certificate holders; impose an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose an undue burden if it imposes restrictions that are greater than those imposed on the manufacture and sale of alcoholic beverages.

4. Licensing

(1) Cannabis transportation and delivery certifications may be issued as follows. The division shall certify entities which demonstrate compliance with its transportation and delivery standards to transport or deliver cannabis. The division shall issue standards for the secure transportation and delivery of cannabis. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation and delivery of cannabis but shall not impose standards that make the transportation or delivery of cannabis impracticable. There shall be no additional fee for a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility to be certified for transportation or delivery.

(2) Cannabis testing certification and standards may be issued as follows. The division shall certify cannabis testing facilities which demonstrate compliance with its rules for independent testing and certification of cannabis. The division shall issue rules or emergency rules establishing standards for a cannabis independent testing and certification program for cannabis licensees and requiring licensees to test cannabis using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. However, the rules shall not

impose any requirements that make it impracticable for an otherwise qualified facility to obtain certification. The division shall not require any cannabis to be tested more than once prior to sale. No cannabis testing facility shall be owned by an entity under substantially common control, ownership, or management as a cannabis cultivation, manufacturing, or retail facility licensed under this section or a medical marijuana cultivation, manufacturing, or dispensary facility licensed under Article XIV section 1. Testing facilities licensed under Article XIV section 1 shall be automatically certified to test cannabis under the rules issued by the division for the testing of cannabis for adult use.

(3) Cannabis hospitality facility certification may be issued as follows. The division shall certify entities which demonstrate compliance with its hospitality standards to allow for the consumption of cannabis on its premises. The division shall issue standards for the safe consumption of cannabis at locations other than a private residence. The standards shall allow for the facility to sell or provide food and beverages, including alcoholic beverages. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the safe consumption of cannabis at a location other than a private residence, but shall not impose standards that make the operation of a cannabis hospitality facility impracticable.

(4) Cannabis cultivation facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to grow cannabis as a cannabis cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single location. Each facility may be limited by the division to not less than thirty thousand square feet of flowering plant canopy space. Facilities may choose to grow indoors using artificial light, outdoors, in a greenhouse utilizing a combination of artificial and natural light, or any combination of methods. The license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana cultivation facility may also apply for a cannabis cultivation facility license at the same location.

(5) Cannabis manufacturing facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana manufacturing facility may also apply for a cannabis manufacturing facility license at the same location.

(6) Cannabis retail facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis retail facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana dispensary facility may also apply for a cannabis retail facility license at the same location.

(7) The division may charge an application or renewal fee for each license type not to exceed two thousand five hundred dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency. Applications re-submitted after a denial shall not be charged an additional application fee, but may be charged a fee of not more than five hundred dollars for a re-submitted application.

(8) The division may charge a certification and renewal fee for each certification type not to exceed one thousand dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency.

(9) An entity may apply for a reduced application or renewal fee. The division shall develop rules to determine the eligibility of an applicant for a reduced fee. The rules shall include consideration for entities:

(a) locating in an area that has an unemployment rate above the national average;

(b) locating in an area that has been designated as an Economic Disadvantaged Zone by the US Division of Commerce;

(c) owned and operated by individuals in protected classes;

(d) owned and operated by veterans;

(e) owned or operated by an entity that was previously denied a medical marijuana facility license based on application score; or

(f) any other factors that would promote the inclusion of small and locally owned businesses and individuals in historically marginalized groups.

(10) All owners, officers, managers, and employees of entities licensed or certified pursuant to this section, shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, may forward the fingerprints to the Federal Bureau of Investigation(FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530. Notwithstanding the provisions of section 610.120, all records related to any criminal history information shall be available to the division. The criminal background check may be requested by the applicant or employer and performed up to ninety days prior to the submission of an application for license, certification, or employment.

(11) The division shall maintain the confidentiality of information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any customer information, or any other records that are exempt from public inspection pursuant to state or federal law. Such information may be used only for a purpose authorized by this section.

(12) The division shall begin accepting license and certification applications not later than August 1, 2023. In order to facilitate the initial costs of regulation, the division may accept application fees beginning January 15, 2023 and shall apply such fees to applications submitted after August 1, 2023. Applications for licenses and certifications under this section shall be approved or denied by the division no later than ninety days after their submission. If the division fails to carry out its nondiscretionary duty to approve or deny an application within ninety days, the application or certification is deemed granted for one year or until revoked for good cause.

(13) There shall be no limit on the number of facility licenses or certifications issued by the division.

(14) Applications for any facility license shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and site security plan;

(ii) A seed to sale tracking system;

(iii) A method for verifying the age or medical marijuana status of any consumer;

(iv) Employment policies that are non-discriminatory and require fingerprint background checks prior to beginning employment at the facility;

(v) A plan to dispose of excess product in the event of the facility closing which may be satisfied by a plan to sell or donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where un-packaged cannabis flower or cannabis-infused products are being prepared or packaged;

(vii) Labeling and packaging policies that are not misleading, are not likely to be confused with non-cannabis containing products, and are designed to make a product recognizable and distinguish it from similar products sold by competitors;

(viii) Record retention policy that allows for the inspection of records of purchases and sales for at least the preceding twenty-four months; and

(ix) Certification that any contracts to supply cannabis for medical use will take precedence over contracts to supply cannabis for adult use.

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(d) The applicant has verified its anticipated location is properly zoned and not within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church; and

(e) The applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(15) Applications for any transportation, delivery, testing, or hospitality certification shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and security plan suitable to the type of certification;

(ii) For testing certifications, an inventory tracking system;

(iii) For hospitality and delivery certifications, a method for verifying the age or medical marijuana patient status of any consumer;

(iv) Employment policies that are non-discriminatory;

(v) A plan to dispose of unused or undelivered product which may be satisfied by a plan to donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where cannabis flower or cannabis-infused products are being tested or consumed;

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(e) For testing facilities, the applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(16) A single entity may hold multiple licenses or certifications and may operate under such licenses at a single location. However, a cannabis hospitality facility certification shall not be issued for a location in which a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility is in operation.

(17) Facilities licensed under Article XIV Section 1 may also apply for and be granted licenses and certifications under this section.

5. Taxation and Funding

(1) Application and renewal fees collected by the division shall be used for the administration of this section. If such fees are insufficient to provide for the administration of this section, the division may apply to the Missouri Economic Recovery and Growth Fund for a cash operating transfer which shall be repaid as provided by law.

(2) A tax is hereby levied upon the retail sale of cannabis for adult use sold at cannabis retail facilities within the state.

(a) The tax shall be at a rate of seven and one-half percent of the retail price.

(b) The tax shall be collected by each licensed cannabis retail facility and paid to the department of revenue. After retaining no more than two percent of the amount collected for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri Economic Recovery and Growth Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(c) Such tax shall not be levied on wholesale sales of cannabis for adult use or any cannabis which is transferred from a cannabis retail facility to a cannabis cultivation or manufacturing facility.

(3) There is hereby created in the state treasury the "Missouri Economic Recovery and Growth Fund", which shall consist of taxes collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the division in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) One-third of all monies collected shall be distributed to not-for-profit organizations, state agencies, and political subdivisions to provide free legal assistance to individuals seeking to expunge a criminal record, or to increase staffing levels to process expungement requests in a timely fashion; and

(b) Two-thirds of all monies collected shall be transferred to the general revenue fund.

(4) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing funding.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of cannabis for adult use.

(6) The fees and taxes provided for in this Article XIV, Section 2 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) A local government may impose a retail sales taxes on the retail sale of cannabis for adult use. Such taxes shall be imposed in the same way as provided for other retail sales taxes in law. Local taxes imposed on the retail sale of cannabis for adult use shall not exceed those imposed by the same jurisdiction on the retail sale of alcoholic beverages or other retail sales whichever is higher.

(8) Any consumer who presents a duly issued medical marijuana patient identification card or a medical marijuana primary caregiver identification card shall not pay the sales tax provided for in this section, but shall pay the sales tax required for medical marijuana sales in Article XIV Section 1.

6. Public Safety

(1) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of cannabis.

(2) A criminal conviction for an intoxication related offense shall require a showing that the person was actually impaired at the time the offense occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show actual impairment.

(3) An allegation of negligence while under the influence of cannabis shall require a showing that the person was actually under the influence of cannabis at the time the negligence occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show the person was actually under the influence.

(3) A consumer may cultivate up to twenty-five square feet of flowering canopy of cannabis for adult use in any space owned or leased by said consumer. The space in which cannabis for adult use is being cultivated must be secured against entry by unauthorized individuals including individuals under twenty-one years of age. Such cannabis shall not be provided for sale to any individual but may be sold or donated through the compassionate care program established in this section.

(4) A consumer may possess the following amounts of cannabis at any one time:

(a) up to eight ounces of dried unprocessed flower;

(b) up to twenty-eight grams of concentrated resin or extract; and

(c) up to four thousand milligrams of tetrahydrocannabinol in cannabis-infused products.

(5) No individual who is under twenty-one years of age may possess cannabis in any amount unless such individual is in possession of a medical marijuana patient or primary caregiver license issued pursuant to Article XIV Section 1.

(6) The legislature may pass criminal statute related to the possession, delivery, or distribution of cannabis in excess of the limits provided for in this section without the appropriate license. However, in no case shall the possession, delivery, or distribution of cannabis in an amount less than two times the limits provided for in this section be deemed a felony unless such delivery or distribution was to a person under twenty-one years of age. Any existing laws which criminalize possession, delivery, or distribution of cannabis in amounts less than the limits provided for in this section are hereby declared null and void unless such delivery or distribution was to a person under twenty-one years of age.

(7) Any individual convicted for a crime related to the possession, delivery, or distribution of cannabis, other than a dangerous felony or the delivery or distribution of cannabis to a person under seventeen years of age and more than two years younger than the person being charged, may file for release from custody and expungement of their criminal record in the jurisdiction in which the conviction occurred. Such release from custody shall be expedited and shall be granted unless the person seeking release is incarcerated for additional crimes. Such expungement shall be granted as a matter of right and shall not affect an individual's ability to seek expungement of other offenses under the laws of this state. The supreme court shall make available to the public free of charge forms for a release from custody or the expungement of such offenses. The filing fee for a motion or new cause of action under this subsection shall be no more than the filing fee for actions brought in the small claims court of the same jurisdiction.

(8) The presence or the smell of cannabis shall not be sufficient probable cause for a law enforcement officer to detain or search a person for reasons other than a suspected intoxication offense, or to impound or search the vehicle, residence, or other property of a consumer. Any search or arrest warrant issued for violations of this section or other cannabis laws not in conflict with this section shall require evidence of the violation and shall not be issued on the basis of the presence of cannabis alone. No search or arrest warrant shall be issued based on violations of this section or other cannabis laws not in conflict with this section that would allow law enforcement officers to enter a premises without first knocking and announcing their presence and purpose.

(9) The division shall develop in coordination with the Missouri department of health and senior services a compassionate care program through which cannabis may be tested and sold or donated to a cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility by any

consumer, cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility. Any facility that receives excess cannabis through such program must make any cannabis received through the program available free of charge to qualifying patients and primary caregivers who meet financial need and health necessity criteria. Each facility may develop its own criteria, but in no case shall cannabis be provided free of charge to any individual who is not in possession of a medical marijuana patient or primary caregiver identification card.

7. Local Control

(1) Unless allowed by the local government, no new cannabis cultivation facility, cannabis testing facility, cannabis retail facility, or cannabis manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. A local government may allow for a location closer than one thousand feet but may not impose any restriction greater than one thousand feet.

(2) No local government shall prohibit cannabis cultivation facilities, cannabis testing facilities, cannabis manufacturing facilities, or cannabis retail facilities, or entities with a transportation or hospitality certification from operating within the locality either expressly or through the enactment of ordinances, including but not limited to zoning ordinances, or regulations that make their operation unduly burdensome in the locality. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality so long as such ordinances or regulations are not more restrictive than those imposed on the manufacture or sale of alcoholic beverages.

(3) Local governments shall develop and adopt ordinances and policies related to cannabis facilities and certificate holders no later than June 30, 2023. The local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose excessive fees or an undue burden if it imposes fees higher than or restrictions greater than those imposed on the manufacture and sale of alcoholic beverages.

(4) If the local government fails to adopt ordinances and policies specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the location and licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(3) Local governments may require cannabis cultivation facilities, cannabis manufacturing facilities, cannabis retail facilities, cannabis transportation or delivery certificate holders, cannabis hospitality certificate holders to be licensed businesses under the local ordinances. However no local government shall require an additional fee to be paid or additional special license to be acquired by a cannabis license or certificate holder that is not required for other businesses in the jurisdiction.

(4) A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality so long as such penalties are not greater than those imposed on the manufacture or sale of alcoholic beverages.

8. Other Provisions

(1) All cannabis for adult use sold in Missouri shall be cultivated in a licensed cultivation facility located in Missouri or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis.

(2) All cannabis-infused products for adult use sold in the state of Missouri shall be manufactured in a licensed manufacturing facility or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis-infused products.

(3) A cannabis testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the adult use of cannabis consistent with this section and otherwise meeting legal standards of professional conduct.

(4) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for being employed by, contracting with, or providing legal assistance to facilities licensed or certified under this section, entities applying for licensing or certification under this section, or any individual seeking legal advice related to activity that is no longer subject to civil or criminal penalties under state law pursuant to this section.

(5) Except as provided for by this section, actions and conduct by consumers, facilities licensed or certified under this section, or the employees, contractors, vendors, or agents of facilities licensed or certified under this section, as permitted by this section and in compliance with division regulations and other provisions of law, shall not be subject to criminal or civil liability or sanctions under Missouri law including but not limited to disciplinary action against a professional license, revocation of probation or parole, denial of public assistance programs or public services, or denial of a license to operate a vehicle, watercraft, or other equipment.

(6) It is the public policy of the state of Missouri that contracts related to cannabis for adult use that are entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

(7) No mandatory reporter under the laws of this state shall be required to report the adult use of cannabis by a parent or prospective parent unless such use is in violation of this section or the parent is actively endangering the health and safety of a child. A prospective foster or adoptive parent shall not be discriminated against for their use of cannabis for non-medical purposes unless such use is in violation of this section or other provisions of law not in conflict with this section.

(8) The denial of a license, license renewal, or identification card by the division shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the division shall be subject to judicial review as provided by law.

(9) No elected official shall interfere directly or indirectly with the division's obligations and activities under this section.

9. Severability

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

RECEIVED
AUG 0 3 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

August 3, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Article XIV, version 1 (2022-053)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on August 3, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-053

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I,_____ being first duly sworn, say (print names of signers)

RECEIVED
2021 AUG -3 AM 9:28
SECRETARY OF STATE

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.						
2.						
3.						
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10.						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Signature of Notary _____

Address of Notary _____

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article XIV of the Constitution is revised by amending Section 1, and adopting one new section to be known as Article XIV, Section 2 to read as follows:

Section 1. 1. Purposes.

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the [limited] legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

2. Definitions.

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the department of health and senior services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" or "marihuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp [containing a cropwide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis] <u>as defined by federal law</u>, or commodities or products manufactured from industrial hemp <u>as defined by federal law</u>.

(6) "Marijuana-infused products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(7) "Medical marijuana cultivation facility" means a facility licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

(8) "Medical marijuana dispensary facility" means a facility licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

(9) "Medical marijuana-infused products manufacturing facility" means a facility licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

(10) "Medical marijuana testing facility" means a facility certified by the department to acquire, test, certify, and transport marijuana.

(11) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(12) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(13) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.

(14) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department. Any health care provider licensed under the laws of the state may also serve as a primary caregiver. A qualifying patient may have up to three primary caregivers.

(15) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory

bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(16) "Qualifying patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

3. Creating Patient Access to Medical Marijuana.

(1) In carrying out the implementation of this section, the department shall have the authority to:

(a) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and for the enforcement of this section so long as patient access is not restricted unreasonably and such rules are reasonably necessary for patient safety or to restrict access to only licensees and qualifying patients.

(c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver to ensure that no medical marijuana grown by a medical marijuana cultivation facility or manufactured by a medical marijuana-infused products manufacturing facility is sold or otherwise transferred except by a medical marijuana dispensary facility. The department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities which demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another entity with a transportation certification. The department shall develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation of marijuana. Any entity licensed or certified pursuant to this section shall be allowed to transport cannabis.

(f) The department may charge a fee not to exceed $5,000 for any certification issued pursuant to this section.

(g) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the department under this section;

[(h) Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section, which scoring shall be limited to an analysis of the following:

(i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers;

(ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income qualifying patients;

(iii) site security;

(iv) experience in a legal cannabis market;

(v) in the case of medical marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience;

(vi) the potential for positive economic impact in the site community;

(vii) in the case of medical marijuana cultivation facilities, capacity or experience with agriculture, horticulture, and health care;

(viii) in the case of medical marijuana dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;

(ix) in the case of medical marijuana-infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and

(x) maintaining competitiveness in the marijuana for medical use marketplace.

In ranking applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise regarding these factors. The department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by qualifying patients.]

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the medical marijuana dispensary facility, product display and examination by the qualifying patient and/or primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed or certified pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, [shall] <u>may</u> forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a

fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530;

(i) Security requirements for any premises licensed or certified pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a medical marijuana dispensary facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. The department shall not require any medical marijuana or medical marijuana-infused products to be tested more than once prior to sale.

(4) The department shall issue rules or emergency rules to provide for the certification of and standards for medical marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as medical marijuana testing facilities. No medical marijuana testing facility shall be owned by an entity under substantially common control, ownership, or management as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

(5) The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation

facilities, medical marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

(7) Within one hundred eighty days of December 6, 2018, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within two hundred ten days of December 6, 2018, the department shall begin accepting applications for such identification cards.

(8) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana cultivation facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five medical marijuana dispensary facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana-infused products manufacturing facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(11) Any applicant for a license authorized by this section may prefile their application fee with the department beginning 30 days after December 6, 2018.

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to [six flowering marijuana plants] <u>fifty square feet of canopy space</u> for the [exclusive use] <u>benefit</u> of that qualifying patient. The card shall

be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of [one hundred] twenty-five dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. In no case shall any qualifying patient cultivate more than fifty square feet of canopy space regardless of the number of primary caregivers assigned to said qualifying patient.

(13) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty-day period, provided that limit is not less than four ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the department.

(14) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty-day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. In no case shall the total amount of medical marijuana attributed to a single qualifying patient in the possession of multiple primary caregivers exceed the limit set by the department. Qualifying patients cultivating marijuana for medical use may possess up to a [ninety-day] one year supply, so long as the supply remains secured on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by [imprisonment of up to one year and] a fine of up to two thousand dollars.

[(15) The department may restrict the aggregate number of licenses granted for medical marijuana cultivation facilities, provided, however, that the number may not be limited to fewer than one license per every one hundred thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department may restrict the aggregate number of licenses granted for marijuana-infused products manufacturing facilities, provided, however, that the number may not be limited to fewer than one license per every seventy thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department may restrict the aggregate number of licenses granted for medical marijuana dispensary facilities, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018. Future changes to the boundaries of or the number of congressional districts shall have no impact.]

(18) The department shall begin accepting license and certification applications for medical marijuana dispensary facilities, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after December 6, 2018. Applications for licenses and certifications under this section shall be approved or denied by the department no later than one hundred fifty days after their submission. If the department fails to carry out its nondiscretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(19) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the department. The department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor

index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the department fails to deny and fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their qualifying patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(20) Primary caregivers under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(21) All marijuana for medical use sold in Missouri shall be cultivated in a licensed medical marijuana cultivation facility located in Missouri.

(22) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a medical marijuana-infused products manufacturing facility.

(23) The denial of a license, license renewal, or identification card by the department shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the department shall be subject to judicial review as provided by law.

(24) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(25) The department shall not have the authority to apply or enforce any rule or regulation that would impose an undue burden on any one or more licensees or certificate holders, any qualifying patients, or act to undermine the purposes of this section.

4. Taxation and Reporting.

(1) A tax is levied upon the retail sale of marijuana for medical use sold at medical marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and paid to the department of revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri veterans' health and care fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund", which shall consist of taxes and fees collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount not to exceed twenty percent of net deposits which is necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies

necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri veterans commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri service officer's program, and other services for veterans approved by the commission, including, but not limited to, health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri veterans commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from, and in addition to, any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

(6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

5. Additional Patient, Physician, Caregiver and Provider Protections.

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the department, and transportation of marijuana from a medical marijuana dispensary facility to the qualifying patient's residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid qualifying patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri state board of registration for the healing arts, or its successor agency, for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider, including individuals licensed under chapter 335 or 337 or their successor statutes, shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any

accreditation or licensing board or commission for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A medical marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by nonemancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation [of up to six flowering marijuana plants per patient] in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

6. Legislation.

Nothing in this section shall limit the general assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section.

7. Additional Provisions.

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or entity with a transportation certification shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a nonviolent crime [for which he or she was not incarcerated and that is more than five years old]; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The department may consult with and rely on the records, advice and recommendations of the attorney general and the department of public safety, or their successor entities, in applying this subdivision.

(3) All medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility licenses, entities with medical marijuana testing facility certifications, and entities with transportation certifications shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) No medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including loss of license.

(5) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana", or a "Marijuana-Infused Product". Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty.

(6) No individual shall serve as the primary caregiver for more than [three] <u>ten</u> qualifying patients.

(7) No qualifying patient shall consume marijuana for medical use in a public place, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(8) No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and, if applicable, loss of their identification card, certificate, or license for up to one year.

(9) All qualifying patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. [Two qualifying] Qualifying patients and care givers, who [both] hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. No shared facility may contain more than five thousand square feet of canopy space without obtaining a medical marijuana cultivation facility license. [No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.]

(10) No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

(11) Unless allowed by the local government, no new medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality.

(12) Unless superseded by federal law or an amendment to this Constitution, a physician shall not certify a qualifying condition for a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic, or in another commonly used format. A qualifying patient must obtain a new physician certification at least annually.

(13) A physician shall not issue a certification for the medical use of marijuana for a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. [Only a parent or guardian may serve as a primary caregiver for a nonemancipated qualifying patient under the age of eighteen.] At least one of the primary caregivers for a nonemancipated qualifying patient under the age of eighteen must be a parent or legal guardian. Only the qualifying patient's [parent or guardian] primary caregiver shall purchase or possess medical marijuana for a nonemancipated qualifying patient under the age of eighteen. A [parent or guardian] primary caregiver shall supervise the administration of medical marijuana to a nonemancipated qualifying patient under the age of eighteen.

(14) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(15) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

8. Severability.

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

[9. Effective Date.

The provisions of this section shall become effective on December 6, 2018.]

Section 2.

1. Purpose

This section is intended to permit the safe and legal use of cannabis by adults over the age of twenty-one and to reasonably regulate the cultivation, processing, manufacturing, and distribution of cannabis. The people of Missouri have a right to enjoy the benefits of their labor free from unreasonable regulation. This section creates a legal, regulated, and taxed cannabis industry so Missouri businesses can participate in the growing market, and the state can reduce the burden on the budget and criminal justice system caused by the prosecution and incarceration of non-violent cannabis possession and distribution.

This section is not intended to supplant the medical marijuana market. The medical marijuana market is a necessary and important part of many patients' treatment plans. Care guided by a health care provider is important when cannabis is used in an intensive and therapeutic manner.

This section is intended to make only those changes to Missouri laws that are necessary to protect consumers and businesses in the cannabis industry from civil and criminal penalties; and to allow for the responsible consumption of cannabis, combat illegal underage consumption of cannabis, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed cannabis cultivators, manufacturers, transporters, hospitality establishments, and retailers. This section is not intended to allow for the unregulated public use of cannabis; the operation of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; the use of cannabis in the workplace; or the use of cannabis by persons under twenty-one years of age.

2. Definitions.

(1) "Adult use" means the production, possession, delivery, distribution, transportation, or ingestion of cannabis or a cannabis-infused product, or drug paraphernalia used to ingest cannabis or a cannabis-infused product, by a person over the age of twenty-one for purposes other than those provided for in Article XIV Section 1.

(2) "Cannabis" means *Cannabis indica, Cannabis sativa, and Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute cannabis, hemp, or marijuana. "Cannabis" includes resin extracted from the plant and cannabis-infused products. "Cannabis" does not include industrial hemp as defined by Federal law or commodities or products manufactured from industrial hemp as defined by Federal law. "Cannabis" does not include parts of the plant that do not contain tetrahydrocannabinol (THC) or the soil or substrate in which the plants were grown.

(3) "Cannabis-infused products" means products that are infused with cannabis or an extract thereof and are intended for ingestion other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(4) "Cannabis cultivation facility" means a facility licensed by the division to acquire, cultivate, process, store, package, transport, and sell cannabis to or from a cannabis retail facility, cannabis testing facility, cannabis manufacturing facility, or another cannabis cultivation facility.

(5) "Cannabis hospitality facility" means a facility certified by the division to permit the consumption of cannabis by consumers or qualifying patients on the premises.

(6) "Cannabis manufacturing facility" means a facility licensed by the division to acquire, process, manufacture, produce, store, package, transport, and sell cannabis and paraphernalia used to ingest cannabis as provided for in this section to or from a cannabis retail facility, cannabis testing facility, cannabis cultivation facility, or another cannabis manufacturing facility.

(7) "Cannabis retail facility" means a facility licensed by the division to acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to a consumer, and acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to or from another cannabis retail facility, a cannabis testing facility, cannabis manufacturing facility, or a cannabis cultivation facility.

(8) "Cannabis testing facility" means a facility certified by the division or the division of health and senior services to acquire, test, certify, and transport cannabis.

(9) "Child-Resistant Packaging" means resealable packaging that is opaque and is designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use.

(10) "Consumer" means a natural person over the age of twenty-one.

(11) "Delivery" means the delivery of cannabis from a cannabis retail facility to a consumer.

(12) "Disqualifying felony" means any dangerous felony as defined by the laws of this state, but shall not include any felony which is based on the possession or distribution of cannabis unless such act included the distribution of cannabis to a person under the age of seventeen and more than two years younger than the person being charged.

(13) "Division" means the division of alcohol and tobacco control within the department of public safety, or its successor division.

(14) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(15) "Flowering plant" means a cannabis plant from the time it shows physical signs of flowering or budding out of the nodes of the stem through harvest.

(16) "Historically Marginalized Population" means African American and Hispanic populations.

(17) "Ingest" means any method of introducing cannabis or its chemical components into the human body including but not limited to:

(a) Ingestion of capsules, teas, oils, and other cannabis-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories; or

(e) Consuming cannabis-infused food products.

(18) "Local Government" means a county, township, city, town, village, or municipality.

(19) "Transportation" means the movement of cannabis between licensed facilities. "Transportation" includes the delivery of cannabis to a cannabis retail facility but does not include delivery of cannabis directly to a consumer.

3. Regulation

In carrying out the implementation of this section, the division shall have the authority to:

(1) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, transportation, delivery, and hospitality of cannabis for adult use in accordance with this section; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(2) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, sale, transportation, and delivery of cannabis for adult use, and for the enforcement of this section, so long as access is not restricted unreasonably and such rules are reasonably necessary for consumer safety or to restrict access to only persons over twenty-one years of age. Such rules may include provisions related to:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the division;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary;

(e) Creation of a range of administrative penalties for use by the division;

(f) Prohibition of misrepresentation and unfair practices;

(g) Regulation of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the cannabis retail facility, product display and examination by a consumer, listings in business directories including online directories and phone books, listings in cannabis-related publications and websites, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of identification cards for entities licensed or certified pursuant to this section, including a fingerprint-based criminal background check for owners, officers, and managers of such entities.

(i) Develop such forms, certificates, licenses, and applications, which may be provided in electronic or digital format, as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(j) Requirements for any entity licensed or certified by the division to create and follow security policies that prevent access to cannabis by any person under the age of twenty-one; prevent entry by any person not authorized by the division or the license holder into areas where cannabis is being cultivated, manufactured, or stored; and provide immediate notice to the entity or their designated agent of any attempt by a person to gain unauthorized or illegal access to cannabis or any area where cannabis is being cultivated, manufactured, or stored;

(k) Regulation of the storage of, warehouses for, and transportation of cannabis for adult use;

(l) Sanitary requirements for, including, but not limited to, the preparation of cannabis-infused products;

(m) The specification of acceptable forms of identification that a cannabis retail facility may accept when verifying a sale;

(n) Labeling and packaging standards that require child-resistant packaging provided that the rules may not unreasonably restrict branding and marketing information that is not misleading and is

designed to make a product recognizable and distinguish it from similar products sold by competitors;

(o) Records to be kept by licensees and the required availability of the records;

(p) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(q) The reporting and transmittal of tax payments;

(r) Authorization for the division of revenue to have access to licensing information to ensure tax payment and the effective administration of this section;

(s) Ensure an adequate supply of cannabis for medical use, including but not limited to regulations that require facilities to maintain an adequate supply of cannabis for medical use based on sales history and requiring contracts to supply cannabis for medical use to take precedence over contracts to supply cannabis for adult use; and

(t) Such other matters as are necessary for the fair, impartial, and comprehensive administration of this section.

(3) Require a seed-to-sale tracking system that tracks cannabis from either the seed or immature plant stage until the cannabis is sold to a consumer to ensure that no cannabis grown by a cannabis cultivation facility or manufactured by a cannabis manufacturing facility is sold or otherwise transferred to a consumer except by a cannabis retail facility or certified delivery entity. The division shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees. The division may coordinate with the department of health and senior services to utilize the same seed to sale tracking system as is used to track marijuana for medical use;

(4) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the division under this section.

(5) If the division fails to promulgate rules and issue licenses specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(6) The division shall not have the authority to apply or enforce any rule or regulation that would require additional fees for applicants, license holders, or certificate holders; impose an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose an undue burden if it imposes restrictions that are greater than those imposed on the manufacture and sale of alcoholic beverages.

4. Licensing

(1) Cannabis transportation and delivery certifications may be issued as follows. The division shall certify entities which demonstrate compliance with its transportation and delivery standards to transport or deliver cannabis. The division shall issue standards for the secure transportation and delivery of cannabis. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation and delivery of cannabis but shall not impose standards that make the transportation or delivery of cannabis impracticable. There shall be no additional fee for a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility to be certified for transportation or delivery.

(2) Cannabis testing certification and standards may be issued as follows. The division shall certify cannabis testing facilities which demonstrate compliance with its rules for independent testing and certification of cannabis. The division shall issue rules or emergency rules establishing standards for a cannabis independent testing and certification program for cannabis licensees and requiring licensees to test cannabis using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. However, the rules shall not

impose any requirements that make it impracticable for an otherwise qualified facility to obtain certification. The division shall not require any cannabis to be tested more than once prior to sale. No cannabis testing facility shall be owned by an entity under substantially common control, ownership, or management as a cannabis cultivation, manufacturing, or retail facility licensed under this section or a medical marijuana cultivation, manufacturing, or dispensary facility licensed under Article XIV section 1. Testing facilities licensed under Article XIV section 1 shall be automatically certified to test cannabis under the rules issued by the division for the testing of cannabis for adult use.

(3) Cannabis hospitality facility certification may be issued as follows. The division shall certify entities which demonstrate compliance with its hospitality standards to allow for the consumption of cannabis on its premises. The division shall issue standards for the safe consumption of cannabis at locations other than a private residence. The standards shall allow for the facility to sell or provide food and beverages, including alcoholic beverages. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the safe consumption of cannabis at a location other than a private residence, but shall not impose standards that make the operation of a cannabis hospitality facility impracticable.

(4) Cannabis cultivation facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to grow cannabis as a cannabis cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single location. Each facility may be limited by the division to not less than thirty thousand square feet of flowering plant canopy space. Facilities may choose to grow indoors using artificial light, outdoors, in a greenhouse utilizing a combination of artificial and natural light, or any combination of methods. The license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana cultivation facility may also apply for a cannabis cultivation facility license at the same location.

(5) Cannabis manufacturing facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana manufacturing facility may also apply for a cannabis manufacturing facility license at the same location.

(6) Cannabis retail facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis retail facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana dispensary facility may also apply for a cannabis retail facility license at the same location.

(7) The division may charge an application or renewal fee for each license type not to exceed two thousand five hundred dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency. Applications re-submitted after a denial shall not be charged an additional application fee, but may be charged a fee of not more than five hundred dollars for a re-submitted application.

(8) The division may charge a certification and renewal fee for each certification type not to exceed one thousand dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency.

(9) An entity may apply for a reduced application or renewal fee. The division shall develop rules to determine the eligibility of an applicant for a reduced fee. The rules shall include consideration for entities:

(a) locating in an area that has an unemployment rate above the national average;

(b) locating in an area that has been designated as an Economic Disadvantaged Zone by the US Division of Commerce;

(c) owned and operated by individuals in protected classes;

(d) owned and operated by veterans;

(e) owned or operated by an entity that was previously denied a medical marijuana facility license based on application score; or

(f) any other factors that would promote the inclusion of small and locally owned businesses and individuals in historically marginalized groups.

(10) All owners, officers, managers, and employees of entities licensed or certified pursuant to this section, shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, may forward the fingerprints to the Federal Bureau of Investigation(FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530. Notwithstanding the provisions of section 610.120, all records related to any criminal history information shall be available to the division. The criminal background check may be requested by the applicant or employer and performed up to ninety days prior to the submission of an application for license, certification, or employment.

(11) The division shall maintain the confidentiality of information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any customer information, or any other records that are exempt from public inspection pursuant to state or federal law. Such information may be used only for a purpose authorized by this section.

(12) The division shall begin accepting license and certification applications not later than August 1, 2023. In order to facilitate the initial costs of regulation, the division may accept application fees beginning January 15, 2023 and shall apply such fees to applications submitted after August 1, 2023. Applications for licenses and certifications under this section shall be approved or denied by the division no later than ninety days after their submission. If the division fails to carry out its nondiscretionary duty to approve or deny an application within ninety days, the application or certification is deemed granted for one year or until revoked for good cause.

(13) There shall be no limit on the number of facility licenses or certifications issued by the division.

(14) Applications for any facility license shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and site security plan;

(ii) A seed to sale tracking system;

(iii) A method for verifying the age or medical marijuana status of any consumer;

(iv) Employment policies that are non-discriminatory and require fingerprint background checks prior to beginning employment at the facility;

(v) A plan to dispose of excess product in the event of the facility closing which may be satisfied by a plan to sell or donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where un-packaged cannabis flower or cannabis-infused products are being prepared or packaged;

(vii) Labeling and packaging policies that are not misleading, are not likely to be confused with non-cannabis containing products, and are designed to make a product recognizable and distinguish it from similar products sold by competitors;

(viii) Record retention policy that allows for the inspection of records of purchases and sales for at least the preceding twenty-four months; and

(ix) Certification that any contracts to supply cannabis for medical use will take precedence over contracts to supply cannabis for adult use.

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(d) The applicant has verified its anticipated location is properly zoned and not within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church; and

(e) The applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(15) Applications for any transportation, delivery, testing, or hospitality certification shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and security plan suitable to the type of certification;

(ii) For testing certifications, an inventory tracking system;

(iii) For hospitality and delivery certifications, a method for verifying the age or medical marijuana patient status of any consumer;

(iv) Employment policies that are non-discriminatory;

(v) A plan to dispose of unused or undelivered product which may be satisfied by a plan to donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where cannabis flower or cannabis-infused products are being tested or consumed;

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(e) For testing facilities, the applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(16) A single entity may hold multiple licenses or certifications and may operate under such licenses at a single location. However, a cannabis hospitality facility certification shall not be issued for a location in which a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility is in operation.

(17) Facilities licensed under Article XIV Section 1 may also apply for and be granted licenses and certifications under this section.

5. Taxation and Funding

(1) Application and renewal fees collected by the division shall be used for the administration of this section. If such fees are insufficient to provide for the administration of this section, the division may apply to the Missouri Economic Recovery and Growth Fund for a cash operating transfer which shall be repaid as provided by law.

(2) A tax is hereby levied upon the retail sale of cannabis for adult use sold at cannabis retail facilities within the state.

(a) The tax shall be at a rate of seven and one-half percent of the retail price.

(b) The tax shall be collected by each licensed cannabis retail facility and paid to the department of revenue. After retaining no more than two percent of the amount collected for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri Economic Recovery and Growth Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(c) Such tax shall not be levied on wholesale sales of cannabis for adult use or any cannabis which is transferred from a cannabis retail facility to a cannabis cultivation or manufacturing facility.

(3) There is hereby created in the state treasury the "Missouri Economic Recovery and Growth Fund", which shall consist of taxes collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the division in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) One-third of all monies collected shall be distributed to state agencies and political subdivisions for:

(i) the provision and expansion of internet access as a public utility;

(ii) the repair and improvement of existing roads and bridges; or

(iii) the repair and improvement of other public utility services including but not limited to water, sewer, and electricity; and

(b) One-third of all monies collected shall be distributed by the division, with the input of an advisory board at least one third of whose members are health care professionals with experience in the medical use of cannabis, through grants to state agencies, educational institutions, and not-for-profit organizations to:

(i) increase access to evidence-based low-barrier drug addiction treatment; to support drug overdose prevention and reversal education;

(ii) support job placement, housing, and ongoing counseling for those with substance abuse disorders; or

(iii) to provide free legal assistance to individuals seeking to expunge a criminal record or who have been charged with a drug-related crime;

(iv) provide funding for research into the effects of cannabis on the human body, detection of active tetrahydrocannabinol (THC) levels in the human body, and the potential uses of cannabis in psychiatric or substance abuse treatment; and

(c) One-third of all monies collected shall be distributed by the division through grants to not-for-profit organizations that:

(i) provide zero percent interest rate loans or grants to small businesses that are owned by individuals who are members of a historically marginalized population; or

(ii) provide cannabis industry training programs for incarcerated or formerly incarcerated individuals.

(4) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing funding.

(5) The unexpended balance existing in the Missouri Economic Recovery and Growth Fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund until the end of the 2028 fiscal year.

(6) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of cannabis for adult use.

(7) The fees and taxes provided for in this Article XIV, Section 2 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(8) A local government may impose a retail sales taxes on the retail sale of cannabis for adult use. Such taxes shall be imposed in the same way as provided for other retail sales taxes in law. Local taxes imposed on the retail sale of cannabis for adult use shall not exceed those imposed by the same jurisdiction on the retail sale of alcoholic beverages or other retail sales whichever is higher.

(9) Any consumer who presents a duly issued medical marijuana patient identification card or a medical marijuana primary caregiver identification card shall not pay the sales tax provided for in this section, but shall pay the sales tax required for medical marijuana sales in Article XIV Section 1.

6. Public Safety

(1) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of cannabis.

(2) A criminal conviction for an intoxication related offense shall require a showing that the person was actually impaired at the time the offense occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show actual impairment.

(3) An allegation of negligence while under the influence of cannabis shall require a showing that the person was actually under the influence of cannabis at the time the negligence occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show the person was actually under the influence.

(3) A consumer may cultivate up to twenty-five square feet of flowering canopy of cannabis for adult use in any space owned or leased by said consumer. The space in which cannabis for adult use is being cultivated must be secured against entry by unauthorized individuals including individuals under twenty-one years of age. Such cannabis shall not be provided for sale to any individual but may be sold or donated through the compassionate care program established in this section.

(4) A consumer may possess the following amounts of cannabis at any one time:

(a) up to eight ounces of dried unprocessed flower;

(b) up to twenty-eight grams of concentrated resin or extract; and

(c) up to four thousand milligrams of tetrahydrocannabinol in cannabis-infused products.

(5) No individual who is under twenty-one years of age may possess cannabis in any amount unless such individual is in possession of a medical marijuana patient or primary caregiver license issued pursuant to Article XIV Section 1.

(6) The legislature may pass criminal statute related to the possession, delivery, or distribution of cannabis in excess of the limits provided for in this section without the appropriate license. However, in no case shall the possession, delivery, or distribution of cannabis in an amount less than two times the limits provided for in this section be deemed a felony unless such delivery or distribution was to a person under twenty-one years of age. Any existing laws which criminalize possession, delivery, or distribution of cannabis in amounts less than the limits provided for in this section are hereby declared null and void unless such delivery or distribution was to a person under twenty-one years of age.

(7) Any individual convicted for a crime related to the possession, delivery, or distribution of cannabis, other than a dangerous felony or the delivery or distribution of cannabis to a person under seventeen years of age and more than two years younger than the person being charged, may file for release from custody and expungement of their criminal record in the jurisdiction in which the conviction occurred. Such release from custody shall be expedited and shall be granted unless the person seeking release is incarcerated for additional crimes. Such expungement shall be granted as a matter of right and shall not affect an individual's ability to seek expungement of other offenses under the laws of this state. The supreme court shall make available to the public free of charge forms for a release from custody or the expungement of such offenses. The filing fee for a motion or new cause of action under this subsection shall be no more than the filing fee for actions brought in the small claims court of the same jurisdiction.

(8) The presence or the smell of cannabis shall not be sufficient probable cause for a law enforcement officer to detain or search a person for reasons other than a suspected intoxication offense, or to impound or search the vehicle, residence, or other property of a consumer. Any search or arrest warrant issued for violations of this section or other cannabis laws not in conflict with this section shall require evidence of the violation and shall not be issued on the basis of the presence of cannabis alone. No search or arrest warrant shall be issued based on violations of this section or other cannabis laws not in conflict with this section that would allow law enforcement officers to enter a premises without first knocking and announcing their presence and purpose.

(9) The division shall develop in coordination with the Missouri department of health and senior services a compassionate care program through which cannabis may be tested and sold or donated to a cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility by any consumer, cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility. Any facility that receives excess cannabis through such program must make any cannabis received through the program available free of charge to qualifying patients and primary caregivers who meet financial need and health necessity criteria. Each facility may develop its own criteria, but in no case shall cannabis be provided free of charge to any individual who is not in possession of a medical marijuana patient or primary caregiver identification card.

7. Local Control

(1) Unless allowed by the local government, no new cannabis cultivation facility, cannabis testing facility, cannabis retail facility, or cannabis manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. A local government may allow for a location closer than one thousand feet but may not impose any restriction greater than one thousand feet.

(2) No local government shall prohibit cannabis cultivation facilities, cannabis testing facilities, cannabis manufacturing facilities, or cannabis retail facilities, or entities with a transportation or hospitality certification from operating within the locality either expressly or through the enactment of ordinances, including but not limited to zoning ordinances, or regulations that make their operation unduly burdensome in the locality. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality so long as such ordinances or regulations are not more restrictive than those imposed on the manufacture or sale of alcoholic beverages.

(3) Local governments shall develop and adopt ordinances and policies related to cannabis facilities and certificate holders no later than June 30, 2023. The local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose excessive fees or an undue burden if it imposes fees higher than or restrictions greater than those imposed on the manufacture and sale of alcoholic beverages.

(4) If the local government fails to adopt ordinances and policies specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the location and licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(3) Local governments may require cannabis cultivation facilities, cannabis manufacturing facilities, cannabis retail facilities, cannabis transportation or delivery certificate holders, cannabis hospitality certificate holders to be licensed businesses under the local ordinances. However no local government shall require an additional fee to be paid or additional special license to be acquired by a cannabis license or certificate holder that is not required for other businesses in the jurisdiction.

(4) A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality so long as such penalties are not greater than those imposed on the manufacture or sale of alcoholic beverages.

8. Other Provisions

(1) All cannabis for adult use sold in Missouri shall be cultivated in a licensed cultivation facility located in Missouri or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis.

(2) All cannabis-infused products for adult use sold in the state of Missouri shall be manufactured in a licensed manufacturing facility or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis-infused products.

(3) A cannabis testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the adult use of cannabis consistent with this section and otherwise meeting legal standards of professional conduct.

(4) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for being employed by, contracting with, or providing legal assistance to facilities licensed or certified under this section, entities applying for licensing or certification under this section, or any individual seeking legal advice related to activity that is no longer subject to civil or criminal penalties under state law pursuant to this section.

(5) Except as provided for by this section, actions and conduct by consumers, facilities licensed or certified under this section, or the employees, contractors, vendors, or agents of facilities licensed or certified under this section, as permitted by this section and in compliance with division regulations and other provisions of law, shall not be subject to criminal or civil liability or sanctions under Missouri law including but not limited to disciplinary action against a professional license, revocation of probation or parole, denial of public assistance programs or public services, or denial of a license to operate a vehicle, watercraft, or other equipment.

(6) It is the public policy of the state of Missouri that contracts related to cannabis for adult use that are entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis

hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to cannabis may be prohibited by federal law.

(7) No mandatory reporter under the laws of this state shall be required to report the adult use of cannabis by a parent or prospective parent unless such use is in violation of this section or the parent is actively endangering the health and safety of a child. A prospective foster or adoptive parent shall not be discriminated against for their use of cannabis for non-medical purposes unless such use is in violation of this section or other provisions of law not in conflict with this section.

(8) The denial of a license, license renewal, or identification card by the division shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the division shall be subject to judicial review as provided by law.

(9) No elected official shall interfere directly or indirectly with the division's obligations and activities under this section.

9. Severability

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

RECEIVED
JUL 30 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 30, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from David Roland regarding a proposed constitutional amendment to Article VIII, version 2 (2022-052)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by David Roland on July 30, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

22-052

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

RECEIVED
2021 JUL 30 AM 10:58
SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.						
2.						
3.						
4.						
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures)

Printed Name of Affiant

Street Address of Affiant

City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary

Address of Notary

(Seal)

NOTICE: The proposed amendment revises Article VIII of the Constitution by adopting six new Sections, to be known as Article VIII, Sections 24, 25, 26, 27, 28, and 29.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article VIII of the Constitution is revised by adopting six new Sections, to be known as Article VIII, Sections 24, 25, 26, 27, 28, and 29, to read as follows:

Section 24. 1. Every voting machine used to conduct an election in the State of Missouri shall be tested and certified as secure prior to each election in which the machine will be used. Such testing and certification shall meet all federal standards.
2. Every voting machine used to conduct an election in the State of Missouri shall produce an individual, permanent paper record for each vote cast, which shall be made available for inspection and verification by the voter at the time the vote is cast. Such individual, permanent paper record shall be preserved for use in any election audit.
3. The candidate or their designee shall have the right to be present whenever paper ballots or the permanent paper records produced by electronic voting machines are counted, audited, or placed in storage.

Section 25. 1. Beginning at the August 2024 primary election, and notwithstanding any other provision of law to the contrary, primary elections for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress shall be non-partisan, open primaries where the four candidates for each office receiving the most votes advance to the general election.
2. No person's name shall be printed on a primary ballot unless that person has filed a declaration of candidacy with the Secretary of State's Office and paid a one-hundred-dollar filing fee to the Secretary of State. Notwithstanding any other provision of law to the contrary, a person shall not be required to pay a filing fee to a political party in order to have their name printed on a primary ballot.
3. Primary ballots for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress shall meet the following criteria:
(1) All candidates for an office shall appear on a single ballot.
(2) No political party identifications or affiliations shall be printed next to the names of the candidates or on any part of the ballot.
(3) Primary ballots shall include space for a write-in candidate for such offices.
4. In the primary election for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress, a qualified voter shall be permitted to cast a vote for any candidate for whom that voter is otherwise eligible to vote. A qualified voter shall only vote for one candidate for each office.
5. The four candidates for each office receiving the most votes in the primary election shall advance to the general election for that office. Only those candidates shall appear on the general election ballot.
6. If two or more candidates receive an equal number of votes for the same office such that there is a tie for fourth place, such candidates or their designees shall draw lots to determine whose name shall appear on the general election ballot. If a candidate declines to participate, the election authority may draw lots on their behalf.

Section 26. 1. For the purposes of this section, the following terms mean:
(1) "Active Candidate", a candidate who has not been eliminated during an instant runoff tabulation.
(2) "Overvote", a vote in which the qualified voter has indicated a preference for more than one candidate at the same placement order.
(3) "Order" or "Placement Order", the number a qualified voter assigns to a candidate indicating that voter's preference, with 1 being the highest placement order and 4 being the lowest placement order.
2. Beginning at the November 2024 general election, and notwithstanding any other provision of law to the contrary, general elections for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress shall be non-partisan, instant runoff elections in which a qualified voter may indicate their preferred candidate order on the ballot.
3. No political party identifications or affiliations shall be printed next to the names of the candidates or on any part of the ballot.
4. In a general election conducted under this section, each ballot shall count as one vote for the highest-ordered, Active Candidate on that ballot.
5. If, after the initial tabulation, an Active Candidate receives a majority of the votes cast, that candidate is elected and tabulation is complete.
6. If, after the initial tabulation, an Active Candidate has not received a majority of the highest-ordered votes cast, votes shall be tabulated as follows:
(1) The candidate receiving the fewest number of votes shall be eliminated.
(2) For each ballot cast for an eliminated candidate, the official conducting the tabulation shall determine the highest-ordered, Active Candidate on the ballot. The vote cast on that ballot shall be added to the total number of votes received by that Active Candidate.
(3) Votes shall be tabulated pursuant to subdivisions (1) and (2) of this subsection until an Active Candidate receives the majority of the remaining votes.
7. If a ballot has a placement order that does not contain any candidate, and there are no Active Candidates at a higher placement order, the ballot shall count as a vote for the highest-ordered, Active Candidate listed after that placement order, if any.
8. Ballots shall not be included in the tabulation process in subsection 5 only if:
(1) The ballot does not include an Active Candidate at any placement order; or
(2) The ballot contains an Overvote that includes the highest-ordered, Active Candidate at any point during the tabulation process.

9. If two or more candidates are tied with an equal and lowest number of votes, and the tabulation in subsection 6 cannot continue until the candidate with the lowest number of votes is eliminated, the candidate to be eliminated shall be determined by such candidates or their designees drawing lots to determine who shall be eliminated. Should a candidate decline to participate, the election authority shall draw lots on their behalf.
10. Ballots shall be laid out to allow voters to indicate their preferred candidate order. The ballot shall be simple and easy to understand, consistent with best practices.
11. Instructions on the general election ballot shall include the following statement: "You may mark up to four choices in order of preference. Marking a second choice cannot help defeat your first choice. Marking a subsequent choice cannot help defeat your higher-ordered choices."
12. Beginning at least one hundred twenty days before the first election utilizing the instant runoff system, the Secretary of State and local election authorities shall conduct a voter education campaign to familiarize voters with the instant runoff voting system.

Section 27. 1. Beginning August 1, 2024, and notwithstanding any other provision of law to the contrary, a special election shall be called to fill any vacancy in a statewide office, office of member of the Missouri General Assembly, and office of member of the United States Congress.
2. A special election to fill a vacancy in any such office shall be conducted pursuant to the primary and general election processes described in Sections 25 and 26 of this Article.

Section 28. The Secretary of State shall issue rules and regulations necessary to implement Sections 24 to 27 of this Article. No rule or portion of a rule promulgated under the authority of such Sections shall become effective unless it has been promulgated pursuant to the requirements provided by law.

Section 29. If any provision of Sections 24, 25, 26, or 27 or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-052)

Subject

Initiative petition from David Roland regarding a proposed constitutional amendment to Article VIII. (Received July 30, 2021)

Date

August 19, 2021

Description

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Christopher W. Hughes, Esq., Policy Director, Ranked Choice Voting Resource Center provided information to the State Auditor's office.

Adam Podowitz-Thomas, Senior Legal Strategist, Electoral Innovation Lab provided information to the State Auditor's office.

Eric H. Bronner, Founder/Executive Director, Veterans for Political Innovation provided information to the State Auditor's office.

Benjamin D. Singer, Executive Director, Show Me Integrity provided information to the State Auditor's office.

Alex Kaplan, Vice President of Policy and Campaigns, and David O'Brien, Policy Counsel, Represent Us provided information to the State Auditor's office.

Rob Richie, President and CEO, FairVote provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated they do not foresee a fiscal impact upon the passage of this petition.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article VIII, version 2, with their assumption that the initiative petition only relates to general and primary elections.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department, Director's Office.

Officials from the **Department of Social Services** indicated this will not create a fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to elections should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition should not have a fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to elections should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this ballot measure would alter the method of elections for statewide offices, Congressional seats, and members of the General Assembly.

Under the current model, each party runs candidates on its own ticket, with the top vote-getter from each party advancing to the general election, joined by any independent or write-in candidates. The proposed measure would instead have candidates of all parties as well as write-ins (independent candidates are not addressed) appear on one nonpartisan

primary ticket, with the four highest vote-getters advancing to the general election. Such general election would then be conducted using ranked-choice voting.

There are four potential areas of expense which could be incurred in implementing this measure: ballot production costs, the required public education campaign, reprogramming of the state election management system, and replacement of voting machines. The state may be required to pay any or all of these costs under Article X, Section 21 of the Missouri Constitution. There is also one potential source of revenue relating to candidate filing fees.

Traditionally, political party candidates pay a filing fee to the party of their choice before filing to appear on a primary ballot. This measure would instead have each candidate pay a $100 filing fee to the Secretary of State. 475 candidates filed for the related offices at the August 2020 primary election. Assuming that this is approximately representative of other years, the state could receive revenues of up to $50,000 for these filing fees in FY 2024. This would be ongoing in even-numbered fiscal years only (fees would be collected in February to March of even-numbered calendar years).

It is anticipated that if an open primary system is put in place, local election authorities could expect some election cost savings due to the reduced number of ballot styles (though these savings could be lessened or overshadowed by an increased cost for printing larger individual ballots). Since the state shares proportional costs for primary elections, any costs or savings by the local election authorities (LEAs) will be shared to a lesser degree by the state in odd-numbered fiscal years. However, due to the scope of the changes that would be involved in instituting this system, the amount of costs or savings to the state is considered to be unknown at this time.

This measure would require their office to conduct a voter education campaign to familiarize voters with the instant runoff voting system and ranked-choice ballots. The precise cost of such a campaign would vary depending on strategic decisions and appropriation by the General Assembly. A statewide educational campaign is estimated to reach or exceed $2,000,000 (one-time cost) beginning in fiscal year (FY) 2024.

Additionally, the Missouri Centralized Voter Registration program (MCVR) would need to be modified to accept ranked-choice vote totals. The total numbers of each different ballot ranking combination would need to be tabulated in MCVR from the LEAs before the instant runoff process could take place, especially in the case of statewide races. This would require programming resources to be devoted beyond those covered under the normal maintenance and upkeep contracts. Labor costs to program this modification are estimated by the vendor at $46,000, to be executed in FY 2023 or FY 2024 in preparation for the time when ranked-choice voting begins in November 2024.

Finally, in order to properly handle ranked-choice ballots, all voting equipment statewide must either be updated with code which allows ranked-choice voting or be replaced with ranked-choice-compatible machines. Since reprogramming can reasonably be considered a lesser cost than full replacement, they present the replacement cost as a maximum for this potential expense. The latest voting systems survey, conducted in 2020, found 5,735

pieces of election equipment in service statewide. At an average replacement cost of $5,000 per machine, this could result in a cost of up to $28,675,000 in FY 2023 or FY 2024.
Each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated no fiscal impact to their office from this initiative petition.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following costs as a result of this initiative petition:

- ~$20,000 **onetime** software expense to update both primary and general election ballots as well as produce the paper record for each vote in Section 24.2
- ~$25,000 each primary election to print each paper record under 24.2
- ~$25,000 each general election to print each paper record under 24.2

- ~$5,000 each primary election for poll workers to assist with voter inspection of records under 24.2
- ~$10,000 each general election for poll workers to assist with voter inspection of records under 24.2
- ~100,000 for **onetime** software upgrades to fulfill the instant runoff tabulation provisions of Section 25.6-8
- ~5,000 in **onetime** training costs for workers
- ~$10,000 in **onetime** voter education costs under Section 26.12

In sum, ~$135,000 in onetime costs and ~$65,000 in recurring costs every even election year (both primary and general).

Officials from **Greene County** indicated the fiscal note for this initiative petition is uncertain in Section 24, due to the undefined terminology for "voting machine." Depending on how courts interpret the term "every voting machine," costs for their county could range into the hundreds of thousands of dollars to zero.

In Section 25 the costs will be ongoing and are estimated to be a minimum of $23,000 per August primary.

Here is a general breakdown:

Election Equipment Testing Estimate Costs:

DS200 Testing Hours: **$3,620.62**

ExpressVote Testing Hours: **$3,070.53**

Total for Equipment Testing: **6,691.15**

August Primary Estimated Costs:

In an August Election open primary with a single ballot type (all parties and issues, instead of five partied ballots and one issues only ballot), with write-in lines the cost is estimated to be: **$16,651.95.**

Officials from the **City of Kansas City** indicated this petition has no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **St. Louis County Board of Elections** indicated their Board of Elections estimates this would have the following impact: $100,000 one-time costs for Voter Education Campaign.

Officials from the **Board of Election Commissioners City of St. Louis** indicated the fiscal impact would be the cost of a new voting system, as the current voting system they have cannot tabulate ranked choice voting.

They are in the process of acquiring a new voting system, and, more than likely, the system they obtain will be able to handle this.

The cost of a new voting system is upwards of $5 million.

Officials from the **Kansas City Board of Election Commissioners** indicated there are many costs and concerns associated with this amendment. They are described below:

1) Petitions must be checked. Staff overtime and additional temporary staff expenses may be incurred at an estimated cost of $15,000 to $40,000 because based on how rank choice works the ballots have to be separated and stacked for retabulation. They would bring in temps and incur staff overtime to process the statewide petitions. It would be done one-time only.

2) An election in the Kansas City portion of Jackson County costs roughly $625,000. This cost will be prorated among all the entities that participate in that election, based on voter registration.

3) If this election becomes law, then their computers used for tabulation would have to be sent back to the vendor and the hardware wiped clean and the new software would be installed for $15,000 (one-time cost). The software for the ballot marking devices must be upgraded and installed by the vendor. Cost is estimated between $25,000 to $50,000 (one-time cost).

4) Public notice would need to be sent to all voters or published in newspapers at an estimated cost of $25,000 to $100,000 to provide detailed information of the new process. These cost would be for at least a year until the public grasps what is going on.

5) Election day Judge and staff training would be estimated at $35,000 per election.

6) Additional security required for election night and days after the elections through certification due to the unrest that will be caused by the lack of understanding of rank choice and how it works. Estimated cost $25,000 per election.

In addition, each election they will have to spend $3,500 for assistance with tabulation of every election. It is ridiculous that they will not be in charge of tabulating any more elections if this system is put into place.

Also, additional mailers will be required for voter instructions up to $50,000 per election.

Officials from the **Platte County Board of Elections** indicated this proposal has no clear fiscal impacts. The testing requirement is presumably different from any testing they currently do, so it may result in unknown costs.

Officials from the **Jackson County Election Board** indicated:

Assuming additional steps may be required to meet the stated federal standards requested in this petition, the Board may have costs associated with this requirement. Currently, JCEB follows the rules set for by the Missouri Secretary of State: 15 CSR 30-10.120, 15 CSR 30-10.130, 15 CSR 30-10.140, 15 CSR 30-10.150 and 15 CSR 30-10.160.	$5,000.00
Potential Software Cost	$5,000.00
Ranked Choice Voting Election Day Support of Vendor - per year	$27,000.00
Additional Staff - Depending on Election - per election	$4,000.00 - $6,000.00
Ranked Choice Voting - Voter Education - Mailers - Printing - Postage	$80,000 - $150,000.00
Reprinting of Voting Instruction Material	$5,000.00
Additional Voting Equipment	$500,000.00
Estimated Cost for Jackson County Election Board	$626,000.00 - $698,000.00
Per year or per election ongoing costs	

Christopher W. Hughes, Esq., Policy Director, Ranked Choice Voting Resource Center provided the following information:

RANKED CHOICE VOTING RESOURCE CENTER

ELECTION ADMINISTRATION RESOURCE CENTER

August 11, 2021

Nicole Galloway
State Auditor of Missouri
301 West High Street, Room 880
Jefferson City, MO 65102
moaudit@auditor.mo.gov

RE: PETITIONS 2022-051 AND 2022-052

Dear Auditor Galloway,

We are writing on behalf of the Ranked Choice Voting Resource Center regarding the estimated fiscal impact of initiative petitions 2022-051 and 2022-052, which would bring Top 4 open primaries and instant runoff voting ("IRV," sometimes referred to as "ranked-choice voting") to Missouri elections. The Ranked Choice Voting Resource Center is a 501(c)(3) nonprofit organization that provides information, research, and tools to teach the public about ranked-choice voting. The staff of the Resource Center have decades of election administration experience and experience overseeing ranked-choice voting elections at all levels of government. Our nationally recognized center is regarded as the premier ranked-choice voting resource for voters, election administrators, policymakers, and candidates.

We recently conducted a statewide analysis of Missouri's voting equipment in our Missouri RCV Administrative Assessment (https://bit.ly/Missouri-RCV-Admin). In our analysis, we found that 107 of 116 local election authorities (106 counties and one city) in Missouri have RCV capable equipment: equipment that can now, or after a software update, be used to hold ranked-choice voting elections. In these counties, hardware purchases are not necessary to add RCV capability. Software upgrades, however, may be necessary and will need to have their costs negotiated directly with the vendors providing equipment to each local election authority. We do not know how many of these election authorities will need to update their software nor how much it may cost any one authority to make upgrades, so we do not estimate those costs here.

Eight local election authorities (seven counties and one city) have legacy voting equipment – equipment at the end of its usable lifespan – and one local election authority (one county) hand counts its elections. The eight election authorities with legacy voting equipment should replace that equipment soon as it is at the end of its usable lifespan. All modern voting equipment available today includes ranked-choice voting capability. By replacing that legacy equipment, these election authorities will also gain ranked-choice voting capability. The hand count county can conduct ranked-choice voting elections by hand though we suggest using voting equipment to speed up the counting process considerably.

833 VOTE RCV
833 868 3728
info@rcvresources.org
www.rcvresources.org

RANKED CHOICE VOTING RESOURCE CENTER

ELECTION ADMINISTRATION RESOURCE CENTER

A previous fiscal note for Petition 2022-19 estimated that purchasing a single voting machine would cost $5,000. Based on publicly available information about voting machines used in the state, we estimate that there are 453 voting machines to be replaced in the eight local election authorities with legacy voting equipment. Replacing all legacy voting equipment in Missouri and purchasing equipment for the hand count county at a rate of $5,000 per machine will cost approximately $2,270,000. We reiterate, however, that this legacy voting equipment should be replaced regardless of whether ranked-choice voting is adopted in the state.

The Board of Aldermen in St. Louis City have passed a bill that includes $5,000,000 for the Board of Elections for the City of St. Louis to update election hardware, software, and IT infrastructure, among other upgrades. Page 13, Line 17: https://www.stlouis-mo.gov/government/city-laws/upload/legislative/boardbills/floor-amended/BB%202%20CSAA%20Combined%20Perfected%202.pdf. If passed, this bill would enable St. Louis City, the largest election authority among those with legacy voting equipment, to replace its 300 pieces of legacy equipment with modern, RCV capable equipment. If passed, this would bring our total cost estimate down to $765,000.

Based on this analysis, the fiscal impact of 22-051 and 22-052 for purchasing RCV capable equipment will be between $0 and $2,270,000 in one-time costs.

Thank you for your consideration of this submission. If you have any questions, please contact the Ranked Choice Voting Resource Center at info@rcvresources.org or 1-833-VOTE-RCV (1-833-868-3728).

Sincerely,

Chris Hughes
Policy Director

833 VOTE RCV
833 868 3728
info@rcvresources.org
www.rcvresources.org

Adam Podowitz-Thomas, Senior Legal Strategist, Electoral Innovation Lab provided the following information:

August 5, 2021

Nicole Galloway
State Auditor of Missouri
301 West High Street, Room 880
Jefferson City, MO 65102
moaudit@auditor.mo.gov

RE: PETITIONS 2022-051 AND 2022-052

Dear Auditor Galloway,

We write today regarding the estimated fiscal impact of initiative petitions 22-051 and 22-052, two bills that would implement a new ranked-choice voting election scheme to elections conducted in Missouri.

We are Dr. Sam Wang, professor at Princeton University and the Director of the Princeton Gerrymandering Project and Electoral Innovation Lab, and Adam Podowitz-Thomas, Senior Legal Strategist for the Lab. The Electoral Innovation Lab takes an engineering-like approach to democracy repair. We use theory and analysis to anticipate how problems in representation, engagement, and depolarization can be solved before they become widespread. This comprehensive approach is used to develop policy reforms, inform legal scholarship and academic research. Ultimately, we seek to test proposed policies: legislative actions, election rules, redistricting optimization, and community strategies. In recent years we have applied our investigational methods to voting reforms, including ranked-choice voting in Maine and Alaska.

Many other jurisdictions have experience implementing ranked-choice voting systems and have done thorough fiscal impact analyses thereof, and can provide some evidence of costs should Missouri implement this voting system.

Implementation costs in other states and cities: $400,000 to $1.1 million

Maine implemented ranked-choice voting in 2018. The state analyzed the costs of implementing the new system during the first year and found that the total fiscal impact to the state was $441,804, the largest portion of which was actually the requirement to print a separate ballot to run a referendum measure on an unrelated matter.[1] Voters in Alaska recently approved similar

[1] See https://www.maine.gov/sos/cec/elec/upcoming/pdf/rcv.costs.2018.pdf

voting reforms to those under consideration in Missouri. The state's official estimate of costs for needed ballot tabulation equipment was only $534,300.[2]

A pending bill in Colorado, which would implement ranked-choice voting in Colorado's all-mail balloting system, was analyzed by that state's legislative council staff. Their estimate of the cost of implementation in the first year was $580,000, with costs for continuing operation decreasing each subsequent year, to a low of $70,500 in the fourth year of implementation.[3]

Some cities in California have utilized ranked-choice voting for many years. One analysis done by Alameda County (where Oakland and Berkeley are located) regarding the implementation of RCV during the 2010 election cycle found that costs for initial implementation would be $1,135,604 during the first year, including a voter education campaign.[4]

Missouri implementation costs are potentially less than $1.0 million

A comprehensive analysis conducted by the experts at the Ranked Choice Voting Resource Center shows that at most 9 out of 116 local election authorities in Missouri have voting machines that are incompatible with ranked-choice voting methods. That report notes that "92% of Missouri's jurisdictions have modern, RCV-capable voting equipment."[5]

As a worst-case scenario, the fiscal impact 22-049 and 22-050 would arise from replacing voting machines in all 9 jurisdictions currently lacking machines, for an estimated total of $2.5 million. However, in these 9 jurisdictions, many machine upgrades are already planned even without any new laws, and will likely be done by the time 22-049 and 22-050 would take effect, after the 2022 cycle. Public records show that jurisdictions without ranked-choice voting-compatible machines are already working to purchase and deploy new, modern machines. In particular, in St. Louis City, home to over two-thirds of the people living in the 9 jurisdictions requiring updated machines, local leaders intend to use funds received from the American Rescue Plan Act of 2021 "for the purposes of updating Election Hardware, Software, IT infrastructure."[6] Therefore we estimate that the necessary purchases of voting machines above and beyond such planned upgrades have the potential to fall **below $1.0 million**.

In addition, we note that there will be an unknown amount of savings in future years because the primary election will require only one ballot instead of one for each partisan primary, as is now the case.

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[2] See https://www.elections.alaska.gov/petitions/19AKBE/19AKBEStatementOfCosts.pdf
[3] See http://leg.colorado.gov/sites/default/files/documents/2021A/bills/fn/2021a_hb1071_r3.pdf
[4] See https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/2010/02Feb/2010-02-09_Item_16a_Council_Findings_for_Ranked_Choice_Voting.pdf
[5] See: https://bit.ly/Missouri-RCV-Admin
[6] See https://www.stlouis-mo.gov/government/city-laws/board-bills/boardbill.cfm?bbDetail=true&BBId=13789

Thank you for your consideration of this submission. If you have any questions, please do not hesitate to call us at (609) 258-0388 or email us at sswang@princeton.edu or podowitz-thomas@princeton.edu.

/s/ Samuel Wang

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Eric H. Bronner, Founder/Executive Director, Veterans for Political Innovation provided the following information:

★ VETERANS ★
FOR POLITICAL INNOVATION

Mobilizing the Military-Connected Community for Powerful Electoral Reforms

July 23, 2021

The Honorable Nicole Galloway
State Auditor of Missouri
301 West High Street, Room 880
Jefferson City, MO 65102
moaudit@auditor.mo.gov

RE: PETITIONS 2022-049 AND 2022-050

Dear Auditor Galloway,

I am writing to you today as the founder and Executive Director of Veterans for Political Innovation regarding the estimated fiscal impact of initiative petitions 22-049 and 22-050. These initiative petitions, if passed, would bring Top-4 single-ballot primaries and ranked choice voting ("RCV"), (sometimes referred to as instant runoff voting or "IRV"), to Missouri elections.

Veterans for Political Innovation (VPI) is a fiercely cross-partisan national nonprofit, based out of our "shedquarters" in Webster Groves, Missouri. VPI exists to educate and inspire the military-connected community to mobilize and advocate for three, targeted nonpartisan electoral reforms, including this innovative "Top-4" voting reform package. VPI will be mobilizing one of America's most trusted groups, as strategic assets, to help restore trust in American democracy through reforms that create better, more competitive elections.

First, it is important to note that, based on the lessons learned from other states, oftentimes, ranked choice voting (RCV) costs less to implement than expected. For example, voters in Alaska recently approved a similar "Top-4" / instant runoff voting reform package in November 2020. Their official estimate of costs for needed ballot tabulation equipment was only $534,300. *(See* Alaska Office of Management and Budget: Estimate of Costs for 19AKBE).

The vast majority of Missouri's Local Election Authorities are ready, willing and able to implement ranked choice voting. Indeed, a comprehensive analysis conducted by the experts at the Ranked Choice Voting Resource Center shows that **at least 107 of 116 local election authorities in Missouri have voting machines that are compatible with ranked-choice voting methods**. In that report, we see that "92% of Missouri's jurisdictions have modern, RCV-capable voting equipment." (*See:* Missouri: Ranked Choice Voting State Readiness Assessment, 2021 Edition)

Furthermore, some jurisdictions are already moving forward with voting machine upgrades. If passed, petitions 22-049 and 22-050 would not take effect until elections after the 2022 cycle. We know from public records that some jurisdictions, who did not have ranked choice voting-compatible machines at the time the above-reference report was completed, are actively working to purchase and deploy new, modern machines — with or without passage of 22-049 and 22-050. For example, in St. Louis City, local leaders intend to use funds received from the American Rescue Plan Act of 2021 " for the purposes of updating Election Hardware, Software, IT infrastructure." (*See* St. Louis City Board Bill 2 (2021 - 2022)

Given the widespread use of RCV compatible machines in Missouri, along with yet to be determined machine upgrades that will happen with or without passage of 22-049 and 22-050, reputable sources who have analyzed Missouri's elections and voting systems ***estimate that the fiscal impact 22-049 and 22-050 likely will be between $0 and $2,264,537.***

Thank you for your public service, and for your time and consideration of this submission. If you have any questions, please do not hesitate to contact me at: 314.222.0477 or eric@v4pi.us.

Sincerely,

Eric H. Bronner
Founder | Executive Director
Veterans for Political Innovation

Benjamin D. Singer, Executive Director, Show Me Integrity provided the following information:

July 23, 2021

State Auditor Nicole Galloway
301 West High Street, Room 880
Jefferson City, MO 65102

To Auditor Galloway:

I write regarding **fiscal note analysis for initiative petitions 2022-049 and 2022-050** on behalf of Show Me Integrity, Missouri's good government and political reform organization. Our board includes Republicans, Democrats, and independents all committed to a more effective, ethical government of, by, and for the people.

We are Missouri's leading authority on modern voting methods. That is because, **from 2019 to 2021, we led a coalition through Missouri's first and only successful policymaking process, campaign, and implementation of a modern voting system called "approval voting,"** which we did in the City of St. Louis. Previously, St. Louis often elected leaders with less than 40% of the vote in the party primary, and no competitive general election. This left politicians with no mandate to govern, giving special interests greater ability to wield undue influence in city politics.

We explored both approval voting and ranked-choice voting. We consulted closely for months with local election authorities and national experts, including the Ranked Choice Voting Resource Center. After our analysis, we concluded that the City of St. Louis election machines were not compatible with ranked-choice voting at the time. However, as we explored other voting modernization campaigns throughout our state, we discovered that **almost all Missouri election authorities—107 of 116—use election machines that ARE compatible with ranked-choice voting (RCV)**. The only counties that do NOT have RCV-compatible equipment are as follows: City of St. Louis; Henry; Moniteau; Phelps; Mississippi; St. Clair; Sullivan; and Worth.

Based on our estimates, we believe the cost of implementing these two petitions will range from $0 to approximately $2,265,000 (453 machines). The range depends on various appropriations bills to upgrade old machines across the remaining 9 counties—some or all of which may move forward regardless of these two initiative petitions.

Please do not hesitate to contact us if you have any questions.

For our Republic,

Benjamin D. Singer, Executive Director
Show Me Integrity | (314) 239-1308
Benjamin@ShowMeIntegrity.org

Alex Kaplan, Vice President of Policy and Campaigns, and David O'Brien, Policy Counsel, Represent Us provided the following information:

July 26, 2021

Nicole Galloway
State Auditor of Missouri
301 West High Street, Room 880
Jefferson City, MO 65102
moaudit@auditor.mo.gov

RE: PETITIONS 2022-049 AND 2022-050

Dear Auditor Galloway,

We are writing on behalf of RepresentUS regarding the ballot petitions officially named 2022-049 and 2022-50, which would bring Top 4 open primaries and instant runoff voting ("IRV," sometimes referred to as "ranked choice voting") to Missouri elections. RepresentUs is a national, nonpartisan organization focused on improving America's political system. We work with partners and volunteers across the political spectrum to pass democracy reforms at the state and local level. RepresentUS has helped grassroots campaigns to bring reforms like Top 4 and IRV across the country.

In our experience, the costs associated with implementing IRV are often far below what many initially expect and we expect this trend to hold in Missouri. Most counties will not need to replace their existing voting machines. According to a comprehensive analysis by the Ranked Choice Voting Resource Center, the vast majority of counties in Missouri (106) already have voting machines capable of conducting elections with IRV.[1] According to an evaluation of another petition involving IRV in Missouri, the estimated cost to replace a single voting machine would be $5,000.[2] Under this formula, the total cost of replacing voting machines unable to run IRV would be well under $3,000,000.[3]

For comparison, when Alaska Division of Elections's fiscal note for a ballot measure to implement the same policy that 2022-49 and 2022-50 it determined that 137 machines would have to be replaced at cost of $3,900 each, for a total cost of $534,300.[4] In the majority of counties that will not need to replace voting machines, costs will be more similar to implementation in Maine, which also did not need to upgrade its voting machines. When Maine

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[1] Ranked Choice Voting Resource Center, Missouri Ranked Choice Voting State Readiness Assessment 2021 Edition, p. 11 (attached in email).
[2] Fiscal Note for 2022-019.
[3] This is based on the estimate that there are approximately 453 that would need to be replaced in the seven counties (including St. Louis City) that do not currently have IRV-capable machines.
[4] Alaska Division of Elections, 19AKBE - Statement of Costs, https://www.elections.alaska.gov/petitions/19AKBE/19AKBEStatementOfCosts.pdf. The Division of Elections also estimates the total cost of implementation to be $803,593, including costs for things like voter education ($150,000) and language assistance ($57,416).

used IRV for the first time in 2018, its Secretary of State reported that the entire cost of statewide implementation that year was $441,804.[5]

Considering the experiences of other jurisdictions that have adopted IRV, we expect the cost of implementation in Missouri to be fairly modest. Thank you for your time and attention to this matter.

Sincerely,

Alex Kaplan
Vice President of Policy and Campaigns

David O'Brien
Policy Counsel

[5] Maine Office of the Secretary of State, Maine Costs for Ranked-choice Voting in 2018, https://www.maine.gov/sos/cec/elec/upcoming/pdf/rcv.costs.2018.pdf.

RANKED CHOICE VOTING RESOURCE CENTER

ELECTION ADMINISTRATION RESOURCE CENTER

MISSOURI

Ranked Choice Voting State Readiness Assessment

2021 Edition

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Ranked-Choice Voting and Election Administration in the State of Missouri

Introduction

Election administration is the day-to-day work required to run elections in the United States. These assessments provide a high-level introduction to election administration practices in a given state and briefly analyze the likely ease of adapting that election administration infrastructure to ranked-choice voting (RCV). The people tasked with administering elections are known as election administrators. In most states, the state-level election administrator is the Secretary of State, along with City/County Clerks or City/County Boards of Elections administering elections at the local level.

These assessments do not provide an analysis of the step-by-step procedures of election administration in a given state. However, such fine-grained details are frequently important to consider and to execute properly in any election, ranked-choice or not. These assessments are kept at a high level due to the large amount of research required even to produce a high-level analysis of election administration practices in a given state. Many of the day-to-day procedures and requirements for actually running an RCV election in a jurisdiction are not covered in these assessments, but those details remain important. If you are interested in a more detailed assessment of your state, please reach out to the Ranked Choice Voting Resource Center (info@rcvresources.org or 1-833-VOTE-RCV), and we can work with you on producing such an assessment.

These assessments provide scores grading the readiness of each state to run RCV elections statewide. Scores are based on what voting systems each state uses, and states are labeled as **RCV Ready**, **RCV Capable**, **Prepping for RCV**, or **Updates Needed for RCV**. However, we know from experience that election administrators are adept at implementing change when it is necessary to do so. It is not our intention to suggest or prove that any state or local jurisdiction is incapable of implementing RCV. While some states may have more work to do when implementing RCV than others, no state is fundamentally incapable of implementing ranked-choice voting due to their current election administration infrastructure.

Election Administration

In each state, election administration is a locally created process. Depending on the state, administering elections can be highly decentralized, with City or County Clerks acting mostly independent of the state and of one another (as in Wisconsin). Alternatively, it can be highly centralized, with City and County Clerks working in close coordination with or at the direction of the state (as in Maryland). Some states have specific functions that are highly centralized at the state level (like ballot design) while leaving other functions entirely up to the locality (like certifying candidates for election).

Election administration tasks include:

- Registering voters
- Certifying candidates and issues for the ballot
- Designing ballots
- Certifying voting systems for use in elections
- Programming voting systems for upcoming elections
- Administering campaign finance reporting systems
- Sending out absentee ballots
- Testing voting systems before elections (known as Logic & Accuracy testing)
- Training poll workers
- Finding polling places
- Processing and counting ballots
- Canvassing and certifying election results
- Conducting post-election audits
- Conducting recounts
- And more!

Depending on the state, election administrators may have other hats to wear as well. In addition to running elections, many also register deeds, issue marriage certificates, collect documents, and coordinate for City Council meetings, among other tasks. A sample list of these tasks is included in this document.

The federal government is minimally involved in election administration. The Election Assistance Commission (EAC) is the federal agency tasked with overseeing election administration in the United States. They serve as a clearinghouse for election administration documents and best practices from the states, and they set voluntary voting systems standards under their Voluntary Voting System Guidelines (VVSG). Some states require their voting systems to meet EAC certification standards, but most do not. The EAC is intentionally weak and purposefully designed to have little to no power over the work of state and local administrators.

In Missouri, election administration responsibilities are divided between the Secretary of State, who sets election administration standards, certifies voting systems for use in the state, and runs the statewide voter registration database, and County Clerks, County Boards, or City Boards of Elections, who are tasked with the day-to-day administration of elections. County Clerks and Boards are responsible for State, County, and Federal election administration within that county, and City Boards are tasked with managing City, State and Federal elections within that City. Local administration tasks include registering voters, designing ballots, testing and programming voting equipment, and finding polling places. City and County Boards are bipartisan and their members are appointed by the Governor and confirmed by the State Senate. Mo. Rev. Stat. § 115.027.

Missouri does not currently have any RCV jurisdictions, but it should be noted that St. Louis City has approval voting for mayor and part of St. Louis County (Ferguson School Board) has cumulative voting for School Board elections.

The significant components of election administration impacted by ranked-choice voting are ballot design, ballot counting and centralization practices, and voting systems. This analysis considers each of those election administration domains in Missouri.

Ballot Design

Designing and laying out ballots is a crucial yet challenging part of running a successful election. Ballot design must consider the type of each contest, the total number of contests, and the number of candidates in each contest while simultaneously providing voters with clear and concise instructions in any given election and complying with additional state laws regulating ballot design.

Several months before an election, election administrators at all levels work to determine the contests that should appear on the ballot and prepare for the candidate filing or nomination period. After the candidate filing or nomination period closes, election administrators collect lists of all contests and candidates qualified to appear on a ballot. Administrators then either create a ballot using ballot design software from their voting system vendors or software developed in-house. After creating these draft ballots, officials proof ballots for accuracy and adherence to any federal, state, or local design requirements. Once the review process is complete, election administrators submit ballot designs to printing companies who then provide election offices with printed ballots for their elections.[1]

The contests on a given voter's ballot can vary within states, counties, and cities, depending on the offices up for election in that voter's assigned precinct. Due to this variation, election administrators design many different ballots for any given election day. To eliminate confusion, officials assign each ballot a style. This style may be a simple letter or number designation. For larger, more complex elections, ballot style codes can require a more intricate naming process.

Ranked-choice voting adds to this already complex task. RCV contests require both more space on a ballot than non-RCV contests and additional instructions for voters to read. This section describes the ballot design process and analyzes election law in Missouri to understand whether current ballot laws pose a barrier to RCV implementation. The analysis covers the average number of contests that appear on Missouri ballots and whether voting systems in Missouri are already capable of capturing RCV ballots. The section also provides links to resources for designing RCV ballots.

RCV Ballots in Missouri

Ranked-choice voting ballots are impacted when the law requires a certain number of columns in contests, when laws regulate how many ovals can appear in any given contest, and when voting instructions are specified in law. Ballot design is fundamental to voters being able to cast their vote as intended. A well-designed ballot means a voter should understand what they are voting on, how to vote, and how to cast the vote they want.

[1] Ballot design concludes well in advance of election day in order to provide time for printing companies to print out large orders of ballots, sending ballots to voters who are in the military or living overseas, sending ballots to voters who request them by mail, and getting ballots back in time for Logic and Accuracy testing of voting systems (when programmed election equipment is tested to confirm that it will behave as it is programmed to on election day).

In Missouri, rules for ballot design for all elections are set by state statute. Mo. Rev. Stat. §§ 115.237, 115.239, 115.395. These laws relate to ballot layout, including organization of party information and race information, race order on ballot, and other ballot elements. The ballot design laws and restraints from voting systems do not prescribe ballot instructions, how to lay out columns, or oval placement, and so are not in conflict with the design of RCV ballots. In other words, no legal barriers to designing effective RCV ballots exist in Missouri. Practical concerns, such as how to fit RCV contests on the ballot, may arise if RCV is adopted in the state; a detailed analysis of that question is outside the scope of this assessment but the RCVRC can produce example RCV ballots conforming to state laws if requested.

Missouri requires write-in spaces for elections that require write-ins. Mo. Rev. Stat. § 115.237(4). RCV ballots with write-in spaces are included in the appendix.

Contests on Missouri Ballots

Knowing how many contests tend to appear on ballots in Missouri helps when considering what races or how many races should be converted to RCV because RCV takes up more space on a ballot than non-ranked-choice-voting contests. The number of contests on ballots in Missouri varies by year. Federal, state, and county-level offices are all elected in November of even years, while city offices are isselected in April of even or odd years. Mo. Const. art. III, § 11, art. IV § 17 (state office election schedule); Mo. Rev. Stat. §§ 49.020, 51.020, 52.010, 53.010, 54.010, 55.045 (county office election dates); Mo. Rev. Stat. § 115.121(3) (municipal election date). Circuit and associate circuit judges are also elected in Missouri on six and four year terms, respectively, while appeals judges and supreme court justices are appointed then subject to retention elections on 12 year terms. Mo. Const. art. V, § 16 (circuit judge elections); sec. 25(c)(1) (retention elections).

Presidential elections have the longest ballots in Missouri, with a minimum of 15 candidate contests. This sample ballot, from the General Election held in Cass County in 2016, contains 17 candidate contests and 11 ballot questions (though not all ballot questions would appear on all ballots in Cass County).[2]

Due to the large number of contests on ballots in Missouri, administrators may need to limit the number of rankings available to a voter on the ballot due to space limitations of physical ballots. The Center for Civic Design suggests ballots not have more than 5-8 rankings when first introducing RCV for maximum voter comfort with the ballot. Recommendations for Introducing ranked-choice voting ballots, Center for Civic Design, pg. 4. The way voters mark the ballot in RCV contests impacts how many rankings voters get. The two primary forms of ranked-choice ballots in use in the United States are column-style and grid-style ballots. Examples of those

[2] Those 17 candidate contests break down into three federal-level contests, seven state-level contests, five county-level contests, one judicial-branch contest, and one retention contest. The state-level and county-level contests are on four-year terms and so will always be included on a presidential election ballot. Federal-level contests will vary between two and three contests in presidential elections, based on whether a Senate seat is up for election. Judicial-branch and retention contests are on regular (4, 6, or 12 year) schedules, but those will vary by county.

ballots are included in the appendix. Voting systems in 106 counties and one independent city currently used in Missouri can handle either or both of these forms of RCV ballot. Voting systems in eight counties and one independent city cannot, at present, capture then export data from either form of RCV ballot. This brief later discusses in general what the voting systems offer in terms of RCV ballots for use in Missouri.

Ballot Counting and Centralization

There are two major stages to the results reporting process in any election. Unofficial results are incomplete results, a category that includes election night reporting. Official results are the final results of an election. Starting on election night, election officials announce unofficial results. This period of unofficial results reporting is also known as election night reporting. Election night results tend not to include absentee ballots, provisional ballots, or ballots that could not be read by a voting machine in the polling place.[3] Jurisdictions provide updates to unofficial results throughout their post-election canvass when all remaining ballots cast in an election are tallied and counted, and other non-vote-counting procedures are completed.

Official results are the final, certified results of an election. These results include votes from all ballots cast in an election, provide the official record of total votes for each candidate in each contest, and are used as the record to certify the official winner(s) in every contest. The body responsible for certifying state election results varies depending on the state and the level of government being elected. Cities tend to certify results for municipal elections, counties tend to certify results for county elections, and states tend to certify results for state and federal elections.

Whether official or unofficial, reporting results for all elections requires some level of centralization of results. Before centralization, however, ballots must be counted. Counting those ballots requires election workers at precincts, vote centers, mail ballot counting centers, or anywhere else votes are counted to scan in or hand count ballots. Vote totals for every contest on the ballot are printed out by voting equipment or recorded on tally sheets and then centralized at the appropriate elections office.

Processes for centralizing election results vary across states. On election night, poll workers typically print out or copy down results totals for each contest from voting systems in precincts. Poll workers then call in, hand-deliver, or enter those numbers on secure web portals to report totals to city or county election administrators. For state and federal elections, those city or county administrators then report election night results up to the state level, using that same possible variety of reporting procedures. Official results are a combination of those election

[3] Like all elections processes, this varies across and within states. Some states begin scanning absentee ballots on Election Day after polls open while other states wait until polls close to begin scanning ballots. Some states are permitted to begin processing absentee ballots (steps such as checking signatures and other verification measures on absentee envelopes) before election day but may not scan those ballots until Election Day, while other states must wait until Election Day to begin all processing of absentee ballots.

night totals and any other vote numbers derived while processing absentee, provisional, and other ballots scanned after election day.

Unofficial results for ranked-choice voting elections may take the form of first-choice totals for candidates - that is, the number of ballots where each candidate was ranked first. First-choice totals are simple to produce: results tapes from voting equipment can print out first-choice totals in RCV elections just as they print out vote totals in non-RCV elections. As with non-RCV elections, those results can be reported back to the appropriate elections office, which can combine totals and publish just first-choice totals. However, first-choice totals aren't enough if no one candidate has a majority in a single-winner RCV contest or there remain seats to be filled in a proportional RCV contest. This is where RCV differs from other voting methods and where the RCV results reporting process branches off from other types of elections.

Determining the winners in a ranked-choice voting election requires producing a round-by-round count to determine the winner or winners in an election. Running this round-by-round count means we need to know the candidate ranking order on each ballot to know 1) who has the fewest votes in the election and 2) who is ranked next on each of those ballots. We also need to know how many ballots were cast in total to determine how many votes candidates must have to win. This means two things for producing ranked-choice voting results: all ballots or ballot data must be available, and those ballots or ballot data must be centralized. Current results centralization practices tend to rely just on results totals printed out from voting systems themselves, but those printouts do not provide sufficient information to run the round-by-round count. Ranked-choice voting requires that election officials centralize either the ballot data known as cast vote records (CVRs) or the actual ballots to run the round-by-round count. After ballots and ballot data are centralized, that data can be run through ranked-choice voting counting software to produce round-by-round results and determine which candidates emerge with the most votes.

This part of the state assessment is broken into two sections: election night results and official results. The assessment analyzes Missouri's current practices for each and considers how they could be adapted to ranked-choice voting reporting. Each section is discussed in further detail below.

Election Night Results

Ranked-choice voting requires that election officials centralize ballot data or the actual ballots to run the round-by-round count. The speed with which round-by-round results can be reported on election night for the federal- or state-level offices depends on how quickly ballots and ballot data can be transmitted to the appropriate state and local election officials. Election administrators in the United States use a variety of transfer mechanisms for election night results, such as uploading election data to a secure server through a state intranet connection, physically transporting flash drives with precinct election data to local officials, or filling out paper results report sheets at the close of polls which then get centralized to local officials. These transfer mechanisms can all be adapted to ranked-choice voting elections.

At the close of polls, election workers print out vote total tapes from voting machines in their precincts and report those vote totals on tally sheets. Mo. Rev. Stat. §§ 115.449, 115.453, 115.456, 115.467, 115.471, 115.473 (laws defining how votes are to be counted, duties of election officials at close of polls, and tally sheet format.). Those tally sheets, along with copies of the printouts from voting systems, are centralized to a location designated by the county election authority. Mo. Rev. Stat. § 115.475. While Missouri law does not appear to regulate this directly, those results are published on election night as they come in. See election night results. Missouri regulation makes brief mention of digital memory devices from voting systems, but they do not appear to be used for election results reporting. In order to run RCV elections, Missouri needs procedures for how to handle, centralize, and extract data from digital memory devices used in RCV elections, as that cast vote record data makes it possible to quickly run the round-by-round count. 15 CSR 30-10.150 & 30-10.160.

Election night results for RCV contests in Missouri could also be limited to the first round of election results, as is done in Maine RCV contests. First choice totals from machines and any counting boards could be reported out and combined to determine first-round totals, which may indicate winners of elections. Before its RCV elections, Maine communicates to voters, the press, and candidates that election night results include only the first round and that round-by-round results are produced about a week after the election. A similar, transparent process could be adopted in Missouri to ensure all stakeholders know when election results are released. In short, Missouri election law and procedures would require updates to produce round-by-round RCV results on election night.

Official Results

Determining the official results of a ranked-choice voting contest requires the centralization of cast vote records from the entire contest, whether in a district in a city election or from all counties in a statewide election. Cast vote records (CVRs) – digital records of all rankings on each ballot cast on a voting machine – can be centralized during the election night reporting process or when producing official results. That centralization can take many forms. In Ireland, which uses RCV for national and local elections, sets of RCV ballots are manually counted in counting centers distributed across the country. Those totals are called into a central office, which determines results. Other jurisdictions, like Maine, centralize cast vote records and ballots not yet scanned at a single counting location that finalizes all records and produces the round-by-round count.

Missouri law provides for various post-election day ballot counting procedures. Absentee ballots are counted on election day, while election officials process provisional ballots and write-in votes in a central counting location after election day. Mo. Rev. Stat. §§ 115.299, 115.430, 115.468 (laws describing how to count absentee, provisional, and write-in votes, respectively). Results must be certified within 14 days of the election, and results for state-wide and multi-county elections must be sent to the Secretary of State within that same 14 day time frame. Mo. Rev. Stat. §§ 115.507; 115.511. Results for those contests rely on final results reports produced by counties, and current procedures make no mention of any information beyond bare ballot and vote totals. As with election night reporting procedures, Missouri needs procedures for how

to handle, centralize, and extract data from digital memory devices used in RCV elections to quickly produce official round-by-round RCV results.

It remains to be seen how election officials would produce RCV results in Missouri. If the state wanted to use a centralized count, Missouri could choose to follow the Maine model of centralizing all ballots or cast vote records to a single location. The state could rely on election administrators to centralize flash drives by driving them to a central location or by developing a secure process for submitting data digitally. Missouri could also use a bonded courier service, as is done in Maine. A bonded courier collects the ballots from precincts or counties across the state, and officials would then centralize those ballots/cast vote records in a single location in Jefferson City, the state capital. Once all ballots and CVRs are centralized, they can be combined and run through counting software to determine winners and produce the round-by-round count. This procedure would increase the State's involvement in results reporting, a major departure from most state election administration practice.

In an Ireland-style decentralized count, counting centers count up batches of votes. First-choice totals are then reported to a central office from those counting centers; that office adds up vote totals and determines which candidates have the fewest votes or which candidates crossed the threshold of the election. That information is then communicated back to the counting centers, where ballots for the eliminated candidate are transferred, and new totals are reported to the central office. These counting, calling, and re-sorting steps continue until the winner or winner(s) are determined.

Missouri could use a similar decentralized process by changing the manual process to a software-based process and counting ballots by computer. The necessary steps are substantially similar: cast vote records would be centralized from precincts to a counting center in each county and uploaded to a computer, instead of following Ireland's practice of counting each ballot by hand. Then total results from the first round would be called into a central counting office. The central office would determine winners or losers and communicate that back to the counties. County election officials would then instruct the software on which candidate to eliminate or elect and similarly continue the rounds of counting. This procedure would keep more responsibility for election results with local administrators, as opposed to giving more responsibility to the State in a fully centralized count. The state could also choose a middle ground between a single centralized location and locations in every county. For example, decentralized counting centers could be created in each congressional district or population centers in different regions of the state.

Once cast vote records are centralized, election officials would need to run the round-by-round count. Missouri has a patchwork of voting systems from many different voting system vendors. Those vendors produce cast vote records in proprietary formats that do not work in other vendors' systems. Therefore, Missouri would need a tabulation tool that can take in cast vote records from multiple different voting system vendors at once to run their round-by-round count. The only piece of software currently able to handle cast vote records from multiple different

voting systems is the Ranked Choice Voting Resource Center's RCTab. The tabulator is open source and available for free from the Resource Center.[4]

Auditing Info

Post-election audits are used to determine whether the voting machines performed as they should, or if they malfunctioned (due to programming errors or malicious interference of a third party attempting to alter the results of an election). They are typically conducted after all ballots in the election have been counted, but before an election is certified, in case the election must be recounted or rerun due to the results of the audit.

Missouri conducts conventional (also known as traditional) post-election audits. These audits take a fixed percentage of voting districts or machines used in a given election, then compare the paper record of ballots from the machines used in that district to the results produced by that voting machine. The percentage of voting districts audited in an election generally ranges from 2% to 5%, though it goes as low as 1% and as high as 10%, depending on the state where the audit is being conducted. Conventional audits count the same percentage of ballots regardless of the margin of victory in the election being audited. Missouri audits a random, 5% sample of precincts in the state. Mo. Code Regs tit. 15, § 30-10.090; § 30-10.110.

Single- and multi-winner RCV races[5] in the Bay Area and Minneapolis are regularly audited using conventional audit procedures. These audits examine the ballots themselves cast in an RCV contest. Note that designing a conventional election audit should be done in consultation with a professional statistician, regardless of the voting method to be audited. Audits of RCV contests should also include an audit of the counting software used. The RCVRC's RCTab could be used to audit RCV software in Missouri, so long as the software is not used to provide results. An auditor could run each contest's CVR through the RCTab software to check the round-by-round count results produced by the round-by-round counting software in Missouri.

Voting Machines in Missouri

Voting systems are the combination of hardware (scanners/DREs/ballot marking devices) and software used to conduct an election. Election administrators use voting systems to design ballots, set up the rules of an election, cast ballots, capture ballots, count election results, and produce results. Voting systems are a fundamental component of running elections in the United States. The ability of those systems to run an RCV election depends on the age of the equipment in use, the software installed on the voting equipment, and the vendor providing the equipment.

Missouri has 114 counties and two independent cities. Of those, 106 counties and one independent city have voting systems capable of conducting an RCV election, or what we call

[4] The tabulator is compatible with Clear Ballot, Dominion, ES&S, Hart, and Unisyn data.
[5] More information on how these two forms of election differ is available on our website.

RCV Capable. Six counties and one independent city use equipment that is not ready for RCV. A single county uses equipment that would require a workaround for RCV, and the remaining county uses hand count procedures to tabulate election results. All data used here was obtained from Verified Voting's Verifier. The data on this site is updated every two years. The analysis in this section uses the 2020 verifier data.

Voting system assessment	Prepping for RCV	92% of jurisdictions have RCV capable equipment

The state of Missouri requires certification of voting systems before use. The Secretary of State certifies equipment for use in elections after that equipment is tested by a federally certified lab. Mo. Rev. Stat. § 115-225; Mo. Regs. tit. 15, § 30-10. Missouri's requirement that voting systems be tested by a federally certified lab is the third-highest level of scrutiny to which voting equipment is subjected. It can take a few months to test and certify a voting system under this requirement.[6] It is unclear if the Secretary of State's office has specific requirements it is looking for if a system claims RCV capability.

Four major vendors of election equipment in the United States have varying levels of compatibility with ranked-choice voting: Dominion Voting Systems, Election Systems and Software (ES&S), Hart InterCivic, and Unisyn Voting Systems. These vendors include RCV compatibility in their systems through general software updates and through RCV-specific counting software add-ons. While these assessments categorize systems by their RCV compatibility, access to any RCV features may require software updates. Specific details for voting system versions were not researched for this document. This information and how it affects RCV implementation can be researched and included in a more detailed assessment upon request. More detail on how we categorized states and voting equipment is available in the "How We Score States" document.

Election administrators purchase voting systems infrequently, and those purchases typically have a significant price tag. It can be possible to have RCV elections counted round-by-round by a voting system vendor's equipment, which is the most efficient solution. Other times, their systems cannot run that sort of count internally, but the machines can capture RCV ballots. In that case, the data from those ballots need to be exported and run through third-party software capable of running the round-by-round count. The following analysis discusses options for running the RCV count in Missouri using the state's current voting systems.

[6] Once a vendor has had a system tested by a lab, it receives a report outlining the results of that test. That report can then be submitted to the EAC if the vendor is looking for EAC certification (the highest level of testing/certification for voting systems in the US) or a vendor can submit that report to a given State's certification authority (typically through the Secretary of State's office). The certification authority then reviews the testing report and may order additional in-state testing. Following the review and any additional testing, the authority may certify or decline to certify that voting system for use in that state. If any changes are made to a system after testing, it will need to be retested and resubmitted for certification.

Jurisdictions with RCV Capable voting systems

Seven counties and one independent city have RCV-ready **ES&S** equipment. Those jurisdictions use DS200, DS450, and ExpressVote equipment. Single-winner RCV ballots can be marked, scanned, and captured with that equipment. A separate tabulation module is available from ES&S to produce round-by-round RCV results. These machines can also capture data for ballots cast in a multi-winner RCV election but need to have that data run through third-party counting software for multi-winner ranked-choice voting results. Software upgrades are needed to gain native vendor single-winner RCV capability, but data could be exported from the equipment as-is and run through third-party counting software for RCV results for both single- and multi-winner RCV. The RCVRC's RCTab can run the round-by-round count on data from this ES&S hardware. Both grid-style and column-style RCV ballots can be designed within this system. The number of rankings vary depending upon the ballot layout (portrait or landscape) and the number of contests on the page. A list of these jurisdictions is available in the appendix.

Twenty-five counties use **Dominion Voting's** Democracy Suite software with ImageCast Precinct, Precinct with BMD, and/or X equipment. Single-winner and multi-winner RCV ballots can be processed and counted through ImageCast machines. Dominion provides RCV counting software and services at a price, and pricing or activation would need to be determined in discussions with the vendor. Round-by-round results are available through Democracy Suite software version 5.2 or higher, provided a jurisdiction has Dominion's RCV software. Dominion equipment limits ballots to a total of 10 rankings on a grid-style ballot. The RCVRC's RCTab can run the round-by-round count on data from this Dominion hardware. A list of these counties is available in the appendix.

One county has RCV-ready **Hart** equipment. That county uses Verity Central, Scan, and Touch Writer equipment. Single-winner and multi-winner RCV ballots can be captured in this system, provided a jurisdiction has Hart's RCV options enabled in their system. While these systems can capture RCV data, Hart systems do not have the ability to tabulate the RCV round-by-round count. Hart ballot data will need to be exported and run through a separate tabulator to determine the winners in an RCV race. The RCVRC's RCTab software can tabulate round-by-round results in RCV elections run on this Hart equipment. Depending on the software version in use, users should be aware that ballots are limited to five or six rankings in a grid-style ballot on these systems. In order to use this Hart equipment to run an RCV election from end to end, additional testing and software will be required. The county is listed in the appendix.

Seventy-three counties have RCV-ready **Unisyn voting systems** equipment. Those counties use OpenElect OVCS, OVI, OVO and Freedom Vote Tablet equipment. Single-winner and multi-winner RCV ballots can be scanned and captured with that equipment. Software upgrades may be needed to gain access to all RCV functionality available from Unisyn. Unisyn's RCV capability is EAC certified. Ballots are limited to three rankings in a grid style. The RCVRC's RCTab can run the round-by-round count on data from this Unisyn hardware. A list of these counties is available in the appendix.

Jurisdictions with equipment requiring RCV workarounds

One county uses both legacy and newer **ES&S** equipment. The older hardware used in this county, M650, cannot be used for RCV, but the newer DS200s used in this county can. The M650 is legacy hardware that cannot export ballot-level data from elections, which means that the necessary information required to run a round-by-round count of RCV cannot be retrieved. DS200s are used for voting in polling places, while the M650 is used to count absentee ballots. Absentee ballots could be scanned through DS200s instead to avoid the RCV limitations of the M650. The M650 could also be replaced with a newer high-speed scanner, any of which are RCV capable. This county is listed in the appendix.

Jurisdictions without RCV Capable equipment

One county and one independent city have **Premier/Diebold** AccuVote OS and AccuVote TSX machines, which are considered legacy voting equipment. These can read RCV ballots but do not currently export useful ballot level data. Their data could be painstakingly converted to usable data, but that process would be very time-consuming. Work is underway now to make using this data less painstaking. However, replacing these machines is likely the most fruitful avenue, given their age and the relative difficulty of conducting RCV elections with them.

Another two counties have **Sequoia** Optech Insight and AVC Edge machines, which are legacy voting equipment. These can read RCV ballots but do not currently export useful ballot level data. Their data could be painstakingly converted to usable data, but that process would be very time-consuming. Work is underway now to make using this data less painstaking. However, replacing these machines is likely the most fruitful avenue, given their age and the relative difficulty of conducting RCV elections with them. In the meantime, these jurisdictions could potentially borrow equipment from a nearby county with RCV-capable equipment. A list of these jurisdictions is available in the appendix.

Three counties use legacy **ES&S** equipment, the M650. This equipment can scan RCV ballots but does not export a cast-vote record, making software-assisted counting of RCV elections impossible if using this hardware. Subdivisions using this equipment either need to hand count their RCV elections (possible in smaller elections) or update their equipment. A list of these counties is available in the appendix.

Jurisdictions conducting Hand Counts

In Missouri, one county counts elections by hand. Hand counting RCV elections can be time-consuming and depends on the length of the ballot and the number of votes cast, the latter of which is unknown until after the election. One option for handling hand count jurisdictions is the approach taken by Maine, which centralizes all RCV ballots cast in hand count cities and towns to the capital, Augusta, where election administrators scan in those ballots. This process is explained in more detail in the Official Results section above. This county is noted in the appendix.

Conclusion

While 92% of Missouri's jurisdictions have modern, RCV-capable voting equipment, another 8% or so of the state still uses non-RCV capable equipment that would require replacement or a workaround before implementation. Because 92% of Missouri jurisdictions have RCV capable equipment, they fall in our **Prepping for RCV** category, meaning their voting system infrastructure is not yet 100% ready for RCV. Still, substantial progress towards that goal has been made.

If you are interested in a more detailed assessment of your state, please reach out to the Ranked Choice Voting Resource Center (info@rcvresources.org or 1-833-VOTE-RCV), and we can work with you on producing such an assessment.

Appendix

Jurisdictions with RCV Capable voting systems

Dominion ImageCast X/ ImageCast Precinct
Adair
Butler
Callaway
Carroll
Carter
Crawford
Gasconade
Jasper
Lafayette
Livingston
Maries
McDonald
Mercer
Montgomery
Newton
Nodaway
Osage
Pemiscot
Pike
Polk
Saline
Warren
Wright

ImageCast Precinct w/ BMD
Grundy
Harrison

ES&S DS200/ExpressVote
Cooper
Greene
Laclede
Lincoln
Vernon

DS200/DS450/ ExpressVote
Boone
Johnson
Kansas City

Hart Verity Central/Scan/ Touch Writer
St. Louis County

Unisyn OpenElect OVI/ OpenElect OVO
Andrew
Atchison
Audrain
Barton
Bates
Benton
Bollinger
Buchanan
Caldwell
Camden
Cape Girardeau
Chariton
Christian
Clark
Clinton
Cole
Dade
Dallas
Daviess
DeKalb
Dent
Douglas
Dunklin
Franklin
Gentry
Hickory
Holt
Howard
Howell
Iron
Knox
Lawrence
Lewis
Linn
Madison
Marion
Miller
Monroe
Morgan
New Madrid
Oregon
Ozark
Perry
Platte
Pulaski
Putnam
Ralls
Randolph
Ray
Reynolds
Ripley
Schuyler
Scotland
Scott
Shannon
Shelby
St. Charles
St. Francois
St. Genevieve
Stoddard
Stone
Taney
Texas
Washington
Wayne
Webster

OpenElect OVCS/ OpenElect OVI/ OpenElect OVO
Jackson

OpenElect OVO/ OpenElect Freedom Vote Tablet (FVT)
Barry
Cass
Cedar
Pettis

OpenElect OVI/ OpenElect OVO/ OpenElect FVT
Clay

OpenElect OVCS/
OpenElect OVO/
OpenElect FVT
Jefferson

Jurisdictions with voting systems requiring RCV workarounds

ES&S
DS200/M650/AutoMARK
Macon

Jurisdictions without RCV Capable voting equipment

Premier/Diebold
AccuVote OS/
AccuVote TSX
Henry
St. Louis City
Sequoia
Optech Insight/
AVC Edge
Moniteau
Phelps

ES&S
M650/AutoMARK
Mississippi
St. Clair
Sullivan

Jurisdictions conducting Hand Counts

Populex Slate
Worth

Best Practices Grid-Style Ballot

More usability resources available on this page: https://www.rcvresources.org/reports

Official Ballot
Franklin County, California **General Election** **Tuesday, November 6, 2012** **2**/2

Instructions for Ranked Choice Voting

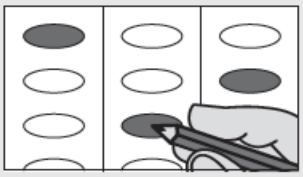
Making selections

Rank candidates in the order of your choice.

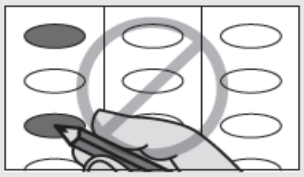
You may rank as many or as few candidates as you wish.

Fill in the oval...

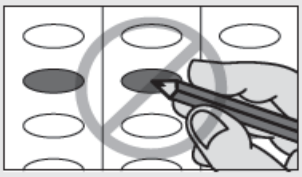
- In the 1st column for your first 1st choice.
- In the 2nd column for your 2nd choice.
- In the 3rd column for your 3rd choice, and so on



Fill in the oval completely.



No more than 1 oval in a column.



No more than 1 oval for a candidate.

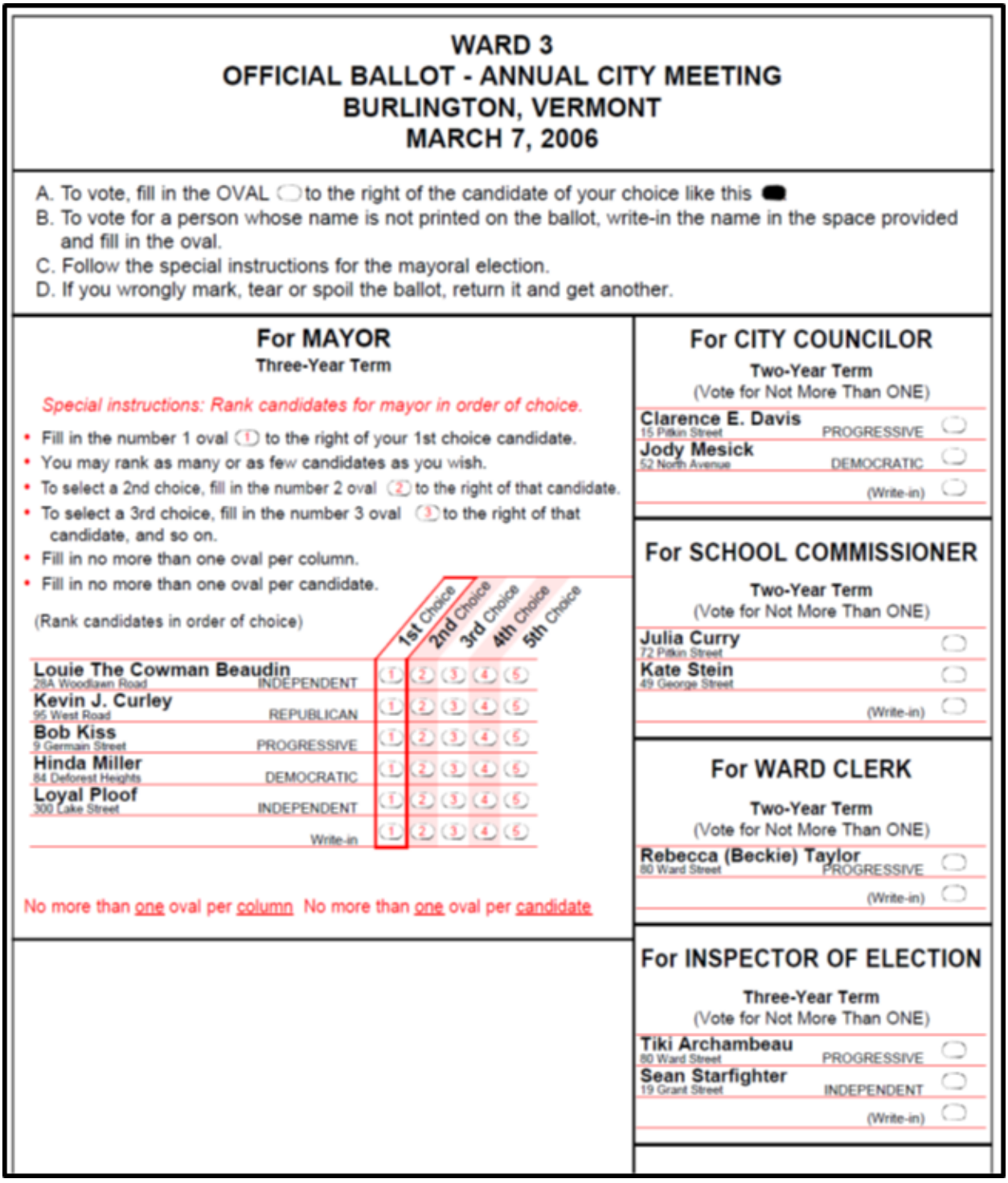
Mayor

Rank up to 10 candidates.

Mark no more than 1 oval in each column.

	First choice 1st	Second choice 2nd	Third choice 3rd	Fourth choice 4th	Fifth choice 5th	Sixth choice 6th	Seventh choice 7th	Eighth choice 8th	Ninth choice 9th	Tenth choice 10th
Frederick Sharp Orange Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Luis Garcia Orange Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Charles Layne Yellow Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Andrew Kowalski Yellow Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Alex Wallace Purple Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Eric Savoy Purple Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Barbara Williams Tan Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Lillian Cohen Lime Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Ann Windsock Independent	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Markos Miller Silver Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Elizabeth Harp Silver Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭

AccuVote Grid Ballot with Write-Ins
Burlington, VT 2006



WARD 3
OFFICIAL BALLOT - ANNUAL CITY MEETING
BURLINGTON, VERMONT
MARCH 7, 2006

A. To vote, fill in the OVAL ◯ to the right of the candidate of your choice like this ●
B. To vote for a person whose name is not printed on the ballot, write-in the name in the space provided and fill in the oval.
C. Follow the special instructions for the mayoral election.
D. If you wrongly mark, tear or spoil the ballot, return it and get another.

For MAYOR
Three-Year Term

Special instructions: Rank candidates for mayor in order of choice.

- Fill in the number 1 oval (1) to the right of your 1st choice candidate.
- You may rank as many or as few candidates as you wish.
- To select a 2nd choice, fill in the number 2 oval (2) to the right of that candidate.
- To select a 3rd choice, fill in the number 3 oval (3) to the right of that candidate, and so on.
- Fill in no more than one oval per column.
- Fill in no more than one oval per candidate.

(Rank candidates in order of choice)

		1st Choice	2nd Choice	3rd Choice	4th Choice	5th Choice
Louie The Cowman Beaudin, 28A Woodlawn Road	INDEPENDENT	1	2	3	4	5
Kevin J. Curley, 95 West Road	REPUBLICAN	1	2	3	4	5
Bob Kiss, 9 German Street	PROGRESSIVE	1	2	3	4	5
Hinda Miller, 84 Deforest Heights	DEMOCRATIC	1	2	3	4	5
Loyal Ploof, 300 Lake Street	INDEPENDENT	1	2	3	4	5
Write-in		1	2	3	4	5

No more than one oval per column No more than one oval per candidate

For CITY COUNCILOR
Two-Year Term
(Vote for Not More Than ONE)

Clarence E. Davis, 15 Pitkin Street	PROGRESSIVE	◯
Jody Mesick, 52 North Avenue	DEMOCRATIC	◯
	(Write-in)	◯

For SCHOOL COMMISSIONER
Two-Year Term
(Vote for Not More Than ONE)

Julia Curry, 72 Pitkin Street		◯
Kate Stein, 49 George Street		◯
	(Write-in)	◯

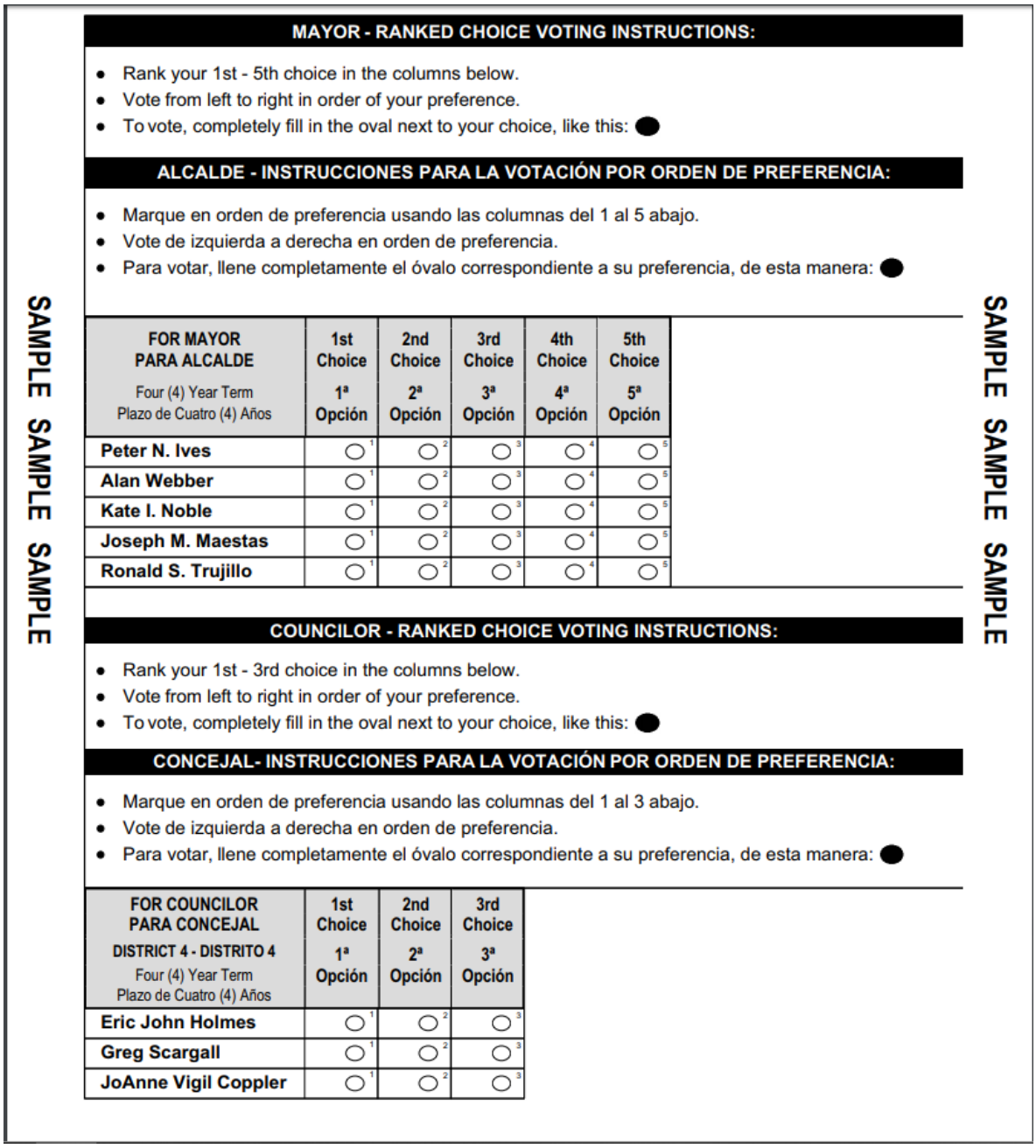
For WARD CLERK
Two-Year Term
(Vote for Not More Than ONE)

Rebecca (Beckie) Taylor, 80 Ward Street	PROGRESSIVE	◯
	(Write-in)	◯

For INSPECTOR OF ELECTION
Three-Year Term
(Vote for Not More Than ONE)

Tiki Archambeau, 80 Ward Street	PROGRESSIVE	◯
Sean Starfighter, 19 Grant Street	INDEPENDENT	◯
	(Write-in)	◯

Dominion Grid Ballot



SAMPLE SAMPLE SAMPLE

MAYOR - RANKED CHOICE VOTING INSTRUCTIONS:

- Rank your 1st - 5th choice in the columns below.
- Vote from left to right in order of your preference.
- To vote, completely fill in the oval next to your choice, like this: ●

ALCALDE - INSTRUCCIONES PARA LA VOTACIÓN POR ORDEN DE PREFERENCIA:

- Marque en orden de preferencia usando las columnas del 1 al 5 abajo.
- Vote de izquierda a derecha en orden de preferencia.
- Para votar, llene completamente el óvalo correspondiente a su preferencia, de esta manera: ●

FOR MAYOR PARA ALCALDE Four (4) Year Term Plazo de Cuatro (4) Años	1st Choice 1ª Opción	2nd Choice 2ª Opción	3rd Choice 3ª Opción	4th Choice 4ª Opción	5th Choice 5ª Opción
Peter N. Ives	○ 1	○ 2	○ 3	○ 4	○ 5
Alan Webber	○ 1	○ 2	○ 3	○ 4	○ 5
Kate I. Noble	○ 1	○ 2	○ 3	○ 4	○ 5
Joseph M. Maestas	○ 1	○ 2	○ 3	○ 4	○ 5
Ronald S. Trujillo	○ 1	○ 2	○ 3	○ 4	○ 5

COUNCILOR - RANKED CHOICE VOTING INSTRUCTIONS:

- Rank your 1st - 3rd choice in the columns below.
- Vote from left to right in order of your preference.
- To vote, completely fill in the oval next to your choice, like this: ●

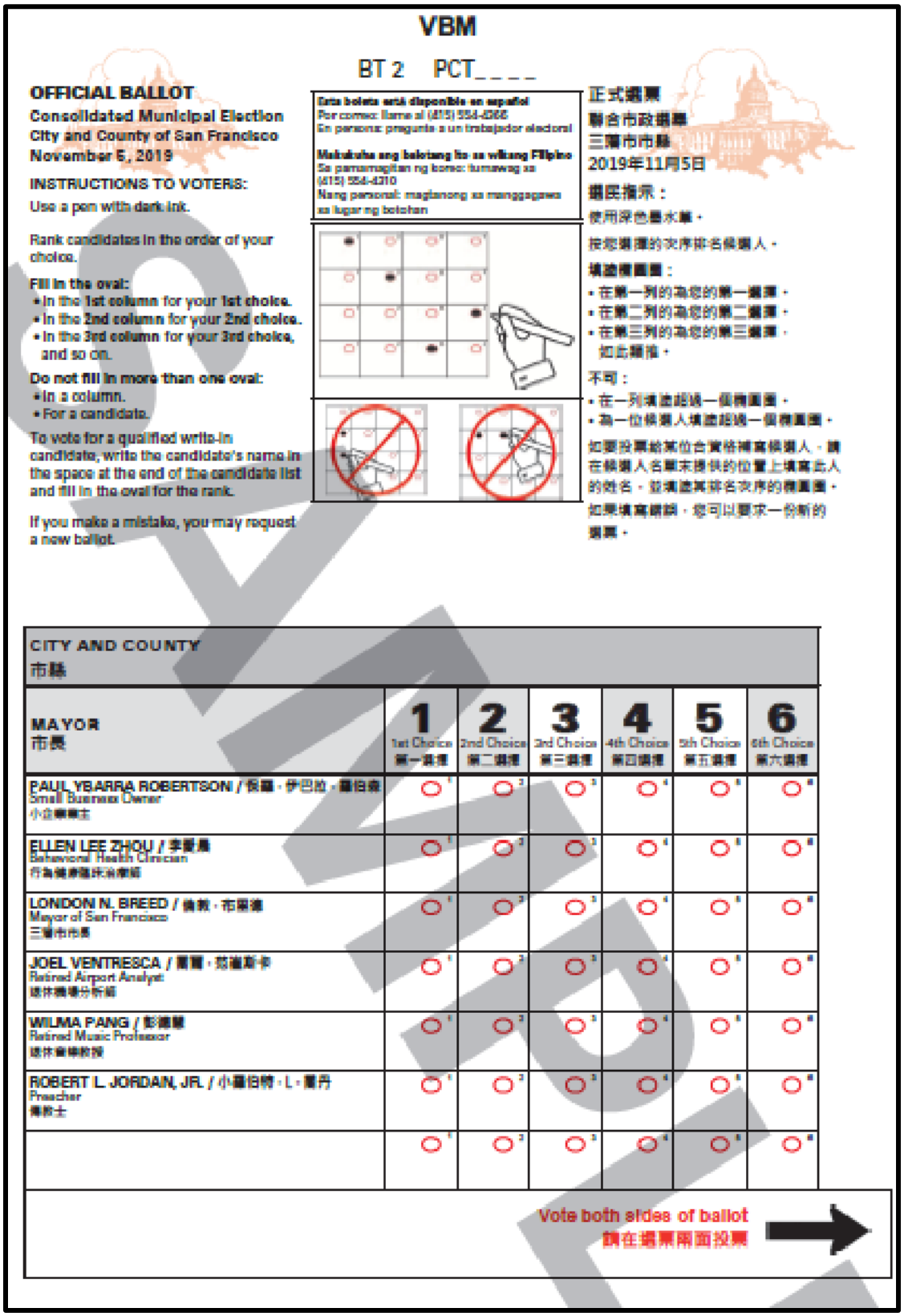
CONCEJAL- INSTRUCCIONES PARA LA VOTACIÓN POR ORDEN DE PREFERENCIA:

- Marque en orden de preferencia usando las columnas del 1 al 3 abajo.
- Vote de izquierda a derecha en orden de preferencia.
- Para votar, llene completamente el óvalo correspondiente a su preferencia, de esta manera: ●

FOR COUNCILOR PARA CONCEJAL DISTRICT 4 - DISTRITO 4 Four (4) Year Term Plazo de Cuatro (4) Años	1st Choice 1ª Opción	2nd Choice 2ª Opción	3rd Choice 3ª Opción
Eric John Holmes	○ 1	○ 2	○ 3
Greg Scargall	○ 1	○ 2	○ 3
JoAnne Vigil Coppler	○ 1	○ 2	○ 3

SAMPLE SAMPLE SAMPLE

Dominion Grid Ballot with Write-Ins



VBM

BT 2 PCT_ _ _ _

OFFICIAL BALLOT
Consolidated Municipal Election
City and County of San Francisco
November 5, 2019

INSTRUCTIONS TO VOTERS:

Use a pen with dark ink.

Rank candidates in the order of your choice.

Fill in the oval:
- In the **1st column** for your **1st choice.**
- In the **2nd column** for your **2nd choice.**
- In the **3rd column** for your **3rd choice,** and so on.

Do not fill in more than one oval:
- In a column.
- For a candidate.

To vote for a qualified write-in candidate, write the candidate's name in the space at the end of the candidate list and fill in the oval for the rank.

If you make a mistake, you may request a new ballot.

Esta boleta está disponible en español
Por correo: llame al (415) 554-4366
En persona: pregunte a un trabajador electoral

Makukuha ang balotang ito sa wikang Filipino
Sa pamamagitan ng koreo: tumawag sa (415) 554-4310
Nang personal: magtanong sa manggagawa sa lugar ng botohan

正式選票
聯合市政選舉
三藩市市縣
2019年11月5日

選民指示：

使用深色墨水筆。

按您選擇的次序排名候選人。

填塗橢圓圈：
- 在第一列的為您的第一選擇。
- 在第二列的為您的第二選擇。
- 在第三列的為您的第三選擇，如此類推。

不可：
- 在一列填塗超過一個橢圓圈。
- 為一位候選人填塗超過一個橢圓圈。

如要投票給某位合資格將寫候選人，請在候選人名單末提供的位置上填寫此人的姓名，並填塗其排名次序的橢圓圈。

如果填寫錯誤，您可以要求一份新的選票。

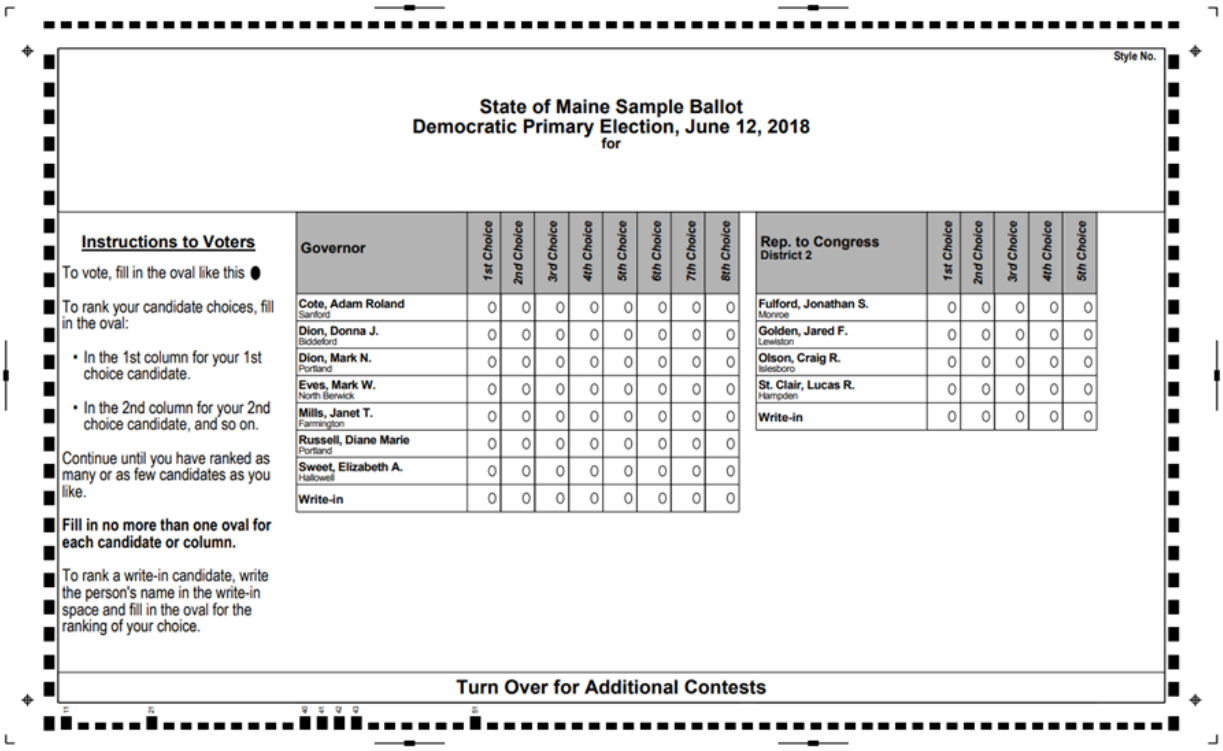
CITY AND COUNTY
市縣

MAYOR 市長	1 1st Choice 第一選擇	2 2nd Choice 第二選擇	3 3rd Choice 第三選擇	4 4th Choice 第四選擇	5 5th Choice 第五選擇	6 6th Choice 第六選擇
PAUL YBARRA ROBERTSON / 保羅·伊巴拉·羅伯森 Small Business Owner 小企業業主	○	○	○	○	○	○
ELLEN LEE ZHOU / 李愛燕 Behavioral Health Clinician 行為健康臨床治療師	○	○	○	○	○	○
LONDON N. BREED / 倫敦·布里德 Mayor of San Francisco 三藩市市長	○	○	○	○	○	○
JOEL VENTRESCA / 喬爾·范崔斯卡 Retired Airport Analyst 退休機場分析師	○	○	○	○	○	○
WILMA PANG / 彭維慧 Retired Music Professor 退休音樂教授	○	○	○	○	○	○
ROBERT L. JORDAN, JR. / 小羅伯特·L·喬丹 Preacher 傳教士	○	○	○	○	○	○
	○	○	○	○	○	○

Vote both sides of ballot
請在選票兩面投票

SAMPLE

ES&S Grid Ballot with Write-Ins



Style No.

State of Maine Sample Ballot
Democratic Primary Election, June 12, 2018
for

Instructions to Voters

To vote, fill in the oval like this ●

To rank your candidate choices, fill in the oval:

- In the 1st column for your 1st choice candidate.
- In the 2nd column for your 2nd choice candidate, and so on.

Continue until you have ranked as many or as few candidates as you like.

Fill in no more than one oval for each candidate or column.

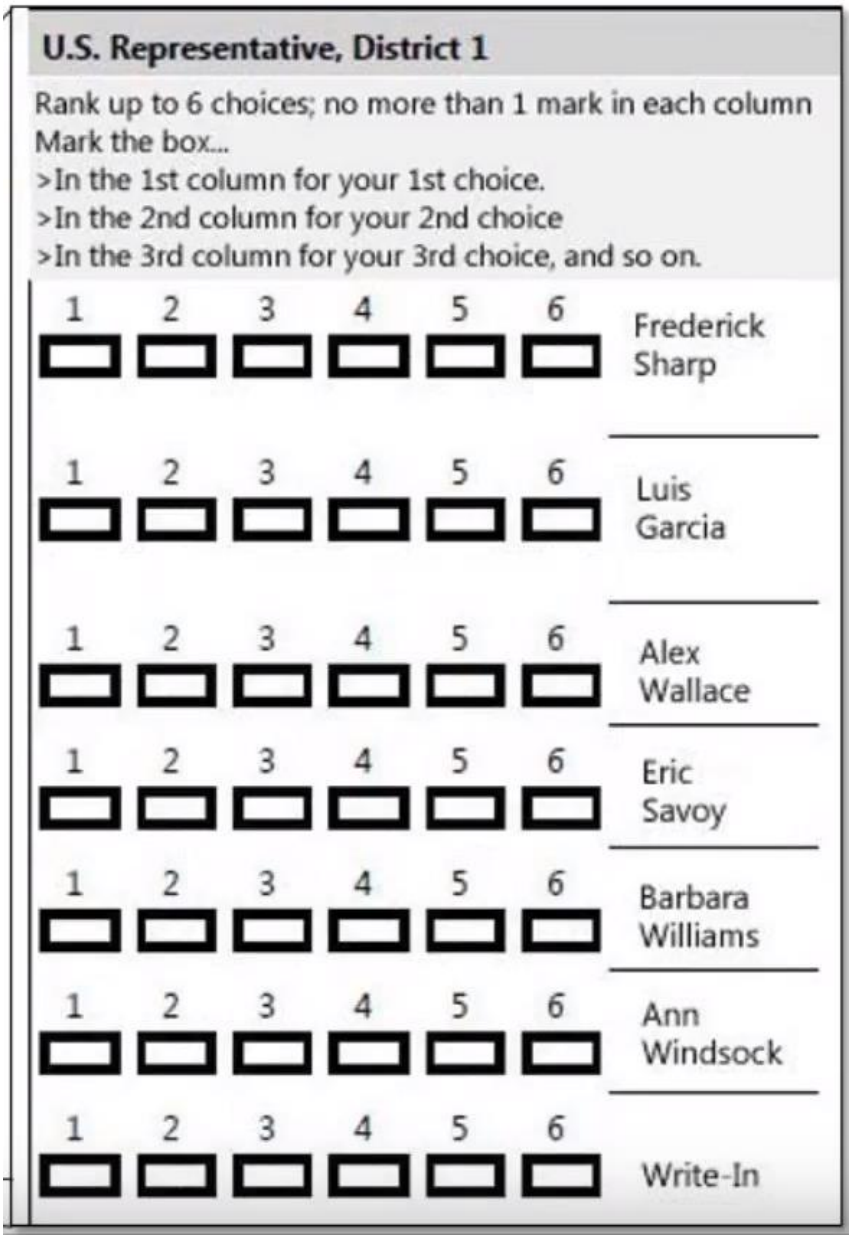
To rank a write-in candidate, write the person's name in the write-in space and fill in the oval for the ranking of your choice.

Governor	1st Choice	2nd Choice	3rd Choice	4th Choice	5th Choice	6th Choice	7th Choice	8th Choice
Cote, Adam Roland (Sanford)	0	0	0	0	0	0	0	0
Dion, Donna J. (Biddeford)	0	0	0	0	0	0	0	0
Dion, Mark N. (Portland)	0	0	0	0	0	0	0	0
Eves, Mark W. (North Berwick)	0	0	0	0	0	0	0	0
Mills, Janet T. (Farmington)	0	0	0	0	0	0	0	0
Russell, Diane Marie (Portland)	0	0	0	0	0	0	0	0
Sweet, Elizabeth A. (Hallowell)	0	0	0	0	0	0	0	0
Write-in	0	0	0	0	0	0	0	0

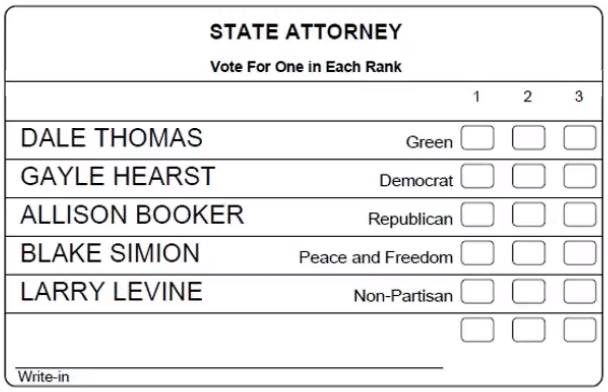
Rep. to Congress District 2	1st Choice	2nd Choice	3rd Choice	4th Choice	5th Choice
Fulford, Jonathan S. (Monroe)	0	0	0	0	0
Golden, Jared F. (Lewiston)	0	0	0	0	0
Olson, Craig R. (Islesboro)	0	0	0	0	0
St. Clair, Lucas R. (Hampden)	0	0	0	0	0
Write-in	0	0	0	0	0

Turn Over for Additional Contests

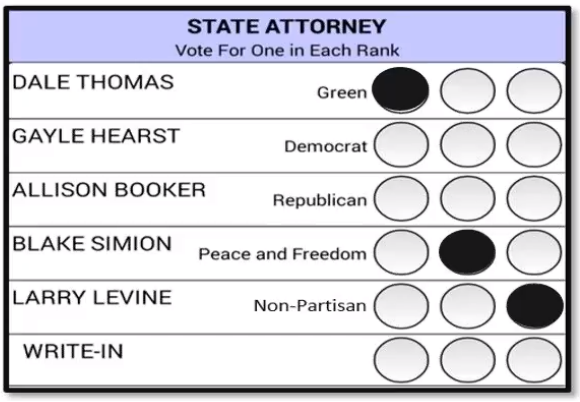
Hart Grid Ballot with Write-Ins



Unisyn Grid Ballot with Write-Ins



Paper Ballot



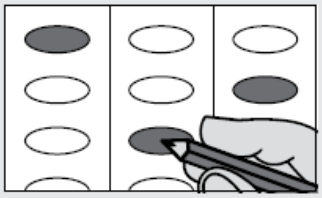
Digital Ballot

Best Practices Column-Style Ballot

Official Ballot
Franklin County, California General Election Tuesday, November 6, 2012 **2/2**

Instructions for Ranked Choice Voting

1. Pick your 1st choice candidate and completely fill in the oval next to that candidate under First Choice.
2. If you have a 2nd choice candidate, fill in the oval next to that candidate under Second Choice.
3. Mark your 3rd choice candidate, if you have one, the same way under Third Choice.



- Mark **at least one candidate** for your vote to count.
- If you make a mistake ask for a new ballot. Otherwise your vote may not count.
- All three choices must be different from each other.
- Don't mark more than one in each column.

Mayor

1 First Choice Fill in one oval	2 Second Choice Fill in one oval	3 Third Choice Fill in one oval
⬭ **Frederick Sharp** Orange Party	⬭ **Frederick Sharp** Orange Party	⬭ **Frederick Sharp** Orange Party
⬭ **Luis Garcia** Orange Party	⬭ **Luis Garcia** Orange Party	⬭ **Luis Garcia** Orange Party
⬭ **Alex Wallace** Purple Party	⬭ **Alex Wallace** Purple Party	⬭ **Alex Wallace** Purple Party
⬭ **Eric Savoy** Purple Party	⬭ **Eric Savoy** Purple Party	⬭ **Eric Savoy** Purple Party
⬭ **Barbara Williams** Tan Party	⬭ **Barbara Williams** Tan Party	⬭ **Barbara Williams** Tan Party
⬭ **Lillian Cohen** Lime Party	⬭ **Lillian Cohen** Lime Party	⬭ **Lillian Cohen** Lime Party
⬭ **Ann Windsock** Independent	⬭ **Ann Windsock** Independent	⬭ **Ann Windsock** Independent
⬭ **Markos Miller** Silver Party	⬭ **Markos Miller** Silver Party	⬭ **Markos Miller** Silver Party

ES&S Column Ballot with Write-Ins

Official Ballot
City General Election Ballot
City of Minneapolis
November 7, 2017

Judge _____ Judge _____

Ranked Choice Voting Instructions to the Voters
Rank up to 3 different candidates for each office.
Vote from left to right in each office in order of your preference.
To vote, completely fill in the oval(s) next to your choice(s) like this: ⬬

City Offices

Mayor

Rank your first, second and third choice candidates in the columns below. One to be elected.

1	2	3
1st Choice Select One	2nd Choice, if any Must be DIFFERENT from your 1st choice. Select One	3rd Choice, if any Must be DIFFERENT from your 1st and 2nd choices. Select One
⬭ Charlie Gers Libertarian Party	⬭ Charlie Gers Libertarian Party	⬭ Charlie Gers Libertarian Party
⬭ David Rosenfeld Socialist Workers Party	⬭ David Rosenfeld Socialist Workers Party	⬭ David Rosenfeld Socialist Workers Party
⬭ Ian Simpson The Idea Party	⬭ Ian Simpson The Idea Party	⬭ Ian Simpson The Idea Party
⬭ Captain Jack Sparrow Basic Income Guarantee	⬭ Captain Jack Sparrow Basic Income Guarantee	⬭ Captain Jack Sparrow Basic Income Guarantee
⬭ Troy Benjegerdes Farmer Labor	⬭ Troy Benjegerdes Farmer Labor	⬭ Troy Benjegerdes Farmer Labor
⬭ Aswar Rahman Democratic-Farmer-Labor	⬭ Aswar Rahman Democratic-Farmer-Labor	⬭ Aswar Rahman Democratic-Farmer-Labor
⬭ Al Flowers Democratic-Farmer-Labor	⬭ Al Flowers Democratic-Farmer-Labor	⬭ Al Flowers Democratic-Farmer-Labor
⬭ Raymond Dehn Democratic-Farmer-Labor	⬭ Raymond Dehn Democratic-Farmer-Labor	⬭ Raymond Dehn Democratic-Farmer-Labor
⬭ Tom Hoch Democratic-Farmer-Labor	⬭ Tom Hoch Democratic-Farmer-Labor	⬭ Tom Hoch Democratic-Farmer-Labor
⬭ David John Wilson Rainbows Butterflies Unicorns	⬭ David John Wilson Rainbows Butterflies Unicorns	⬭ David John Wilson Rainbows Butterflies Unicorns
⬭ Ronald Lischeid People Over Politics	⬭ Ronald Lischeid People Over Politics	⬭ Ronald Lischeid People Over Politics
⬭ L.A. Nik Independent	⬭ L.A. Nik Independent	⬭ L.A. Nik Independent
⬭ Nekima Levy-Pounds Democratic-Farmer-Labor	⬭ Nekima Levy-Pounds Democratic-Farmer-Labor	⬭ Nekima Levy-Pounds Democratic-Farmer-Labor
⬭ Jacob Frey Democratic-Farmer-Labor	⬭ Jacob Frey Democratic-Farmer-Labor	⬭ Jacob Frey Democratic-Farmer-Labor
⬭ Gregg A. Iverson Democratic-Farmer-Labor	⬭ Gregg A. Iverson Democratic-Farmer-Labor	⬭ Gregg A. Iverson Democratic-Farmer-Labor
⬭ Betsy Hodges Democratic-Farmer-Labor	⬭ Betsy Hodges Democratic-Farmer-Labor	⬭ Betsy Hodges Democratic-Farmer-Labor
⬭	⬭	⬭
write-in, if any	write-in, if any	write-in, if any

Council Member Ward Three

Rank your first, second and third choice candidates in the columns below. One to be elected.

1	2	3
1st Choice Select One	2nd Choice, if any Must be DIFFERENT from your 1st choice. Select One	3rd Choice, if any Must be DIFFERENT from your 1st and 2nd choices. Select One
⬭ Samantha Pree-Stinson Green Party Endorsed	⬭ Samantha Pree-Stinson Green Party Endorsed	⬭ Samantha Pree-Stinson Green Party Endorsed
⬭ Steve Fletcher Democratic-Farmer-Labor	⬭ Steve Fletcher Democratic-Farmer-Labor	⬭ Steve Fletcher Democratic-Farmer-Labor
⬭ Tim Bildsoe Democratic-Farmer-Labor	⬭ Tim Bildsoe Democratic-Farmer-Labor	⬭ Tim Bildsoe Democratic-Farmer-Labor
⬭ Ginger Jentzen Socialist Alternative	⬭ Ginger Jentzen Socialist Alternative	⬭ Ginger Jentzen Socialist Alternative
⬭	⬭	⬭
write-in, if any	write-in, if any	write-in, if any

Vote Front and Back of Ballot

MINNEAPOLIS W-3 P-06
1485

Typ:01 Seq:0082 Spl:01

SAMPLE

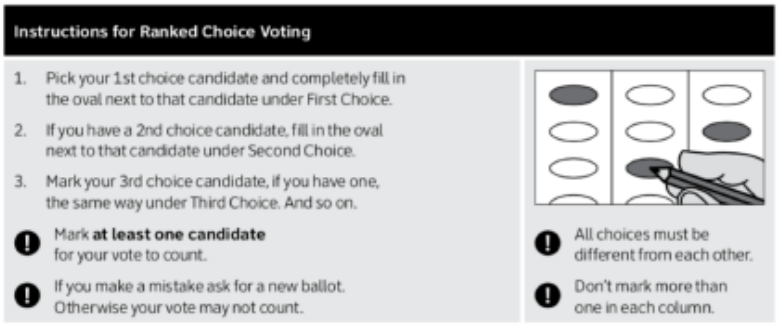
Choosing a ranked choice ballot design layout

Two styles of ballot instructions

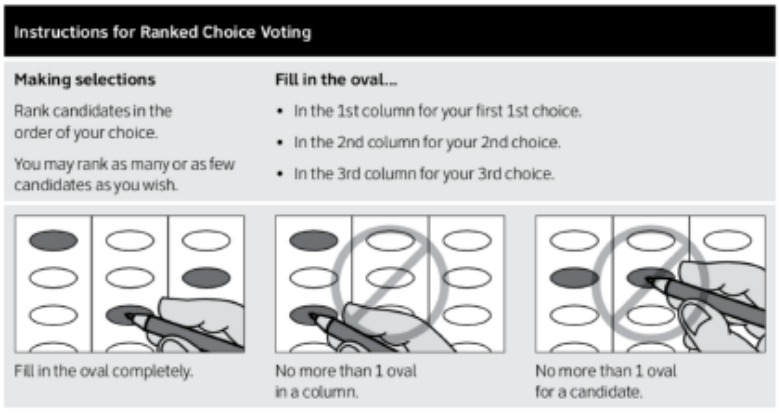
Both instruction styles had been used during the earlier studies. There were no differences in voter preferences. All liked having illustrations and clear instructions.

- Both filled the entire width of the ballot above the first ranked choice contest.
- Both work for either grid or 3-column ballot styles.

Instruction style A



Instruction style B



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We thank you for your ongoing support of our organization.

Acknowledgements

Our work is only possible by the generosity of our donors. RCVRC is a nonpartisan, 501(c)3 nonprofit. For more information or to make a donation, please visit our website at www.rcvresources.org.

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a division of Election Administration Resource Center
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www.rcvresources.org
info@rcvresources.org

Ranked Choice Voting
RESOURCE CENTER

This document is a summary of voting system capabilities for ranked choice voting (RCV) elections. Revised May 2019 from previous version released in 2017.

Major Voting Equipment Vendors' Ranked Choice Voting Capabilities

(Version 2.0, May 2019)

In 2017 the Ranked Choice Voting Resource Center (RCVRC) compiled its first report on the ranked choice voting (RCV) capabilities of voting systems used in the United States. Since that time, great strides have been made by voting systems companies to include this voting method in their systems and more jurisdictions have upgraded from their older, legacy voting systems. With these improvements, the focus of this report centers on current voting systems with supplemental information regarding legacy equipment. Much of our information comes from presentations by vendor representatives during our RCV Symposium held April 2018 and discussions with company representatives since that time. Recordings of these presentations and post-symposium question and answer documents can be found at https://www.rankedchoicevoting.org/rcv_online_symposium.

Summary of Current Voting System RCV Capabilities by Vendor

The four largest voting equipment vendors servicing elections in the United States all have RCV capabilities as part of their current voting systems. The following provides an overview of what each vendor provides. Jurisdictions should check with the vendor regarding specific configurations and pricing. Furthermore, standards vary by state, so additional certification or evaluation may be required.

- **Dominion Voting**
  - **Election Management System compatible with RCV:** Democracy Suite (Version 5.2 and higher)
  - **Voting Equipment compatible with RCV:** ImageCast Evolution, ImageCast Precinct, ImageCast Central, ImageCast Remote
  - **RCV Ballot Design:** Grid | Up to 10 rankings | Can include non-RCV contests
  - **RCV Tabulation:** Single-winner and multi-winner RCV | Built-in tabulation
  - **Symposium Summary:** Dominion Voting offers built-in RCV tabulation with its Democracy Suite software, beginning with Version 5.2, in combination with its ImageCast voting equipment. Dominion's system can produce a ballot with both RCV and non-RCV contests. The system allows for up to 10 rankings in a grid-style ballot. To tabulate, RCV ballot data from voting equipment is loaded into the Democracy Suite system with other election contest data. Using the built-in RCV tabulation software, officials select to run the RCV algorithm to generate real time results for single-winner or multi-winner RCV. The system can continually update the results as additional ballot data is added. Results reports are available round-by-round and by district.

- **Election Systems & Software (ES&S)**
  - **Election Management System compatible with RCV:** Electionware
  - **Voting Equipment compatible with RCV:** DS200, DS450, DS850, ExpressTouch, ExpressVote, AutoMARK

- **RCV Ballot Design:** Grid or column | Up to 21 rankings (portrait ballot) or 23 rankings (landscape ballot) | Can include non-RCV contests
- **RCV Tabulation:** Single-winner RCV | Tabulation through ExpressRunoff (separate module)
- **Symposium Summary:** ES&S's Electionware election management system, and compatible equipment, offers RCV ballot design, capture, and tabulation. ES&S's system can produce a ballot with both RCV and non-RCV contests, for single-winner and multi-winner contests. Ballots can be in landscape or portrait layouts and use grid or column designs for RCV contests. Cast vote records can be exported for tabulation in the company's separate module, ExpressRunoff, which is currently limited to single-winner RCV. See "RCVRC Tabulator" below for information on tabulating multi-winner contests. Reports are generated showing round by round tabulation in an Excel spreadsheet and are time stamped. A comprehensive report may also be selected.

- **Hart InterCivic**
  - **Election Management System compatible with RCV:** Verity
  - **Voting Equipment compatible with RCV:** Verity Scan, Verity Touch, Verity Touch Writer, Verity Central, Verity Duo
  - **RCV Ballot Design:** Grid (paper ballots) | EAC/AIGA touchscreen "Design for Democracy" (electronic ballots) | Up to 6 rankings
  - **RCV Tabulation:** Tabulates first round | Additional rounds through customized software or third-party vendor
  - **Symposium Summary:** Hart's Verity system can be used to create and record a ballot with RCV contests. Verity Scan and Verity Central (paper ballot scanners), Verity Touch (DRE), and Verity Touch Writer (accessibility ballot marking) can process selections and record cast vote records for RCV contests. In the Verity Data software, the election official/user makes ballot design specifications and sets the voting logic for each contest, including a selection option for ranked choice. Additional election data entry allows the official to designate both RCV and non-RCV contests and determine the contest order. The system allows for up to six rankings in an RCV contest. The Verity system does not offer full RCV tabulation. The system provides vote tabulation for the first round of an RCV contest, then subsequent rounds must be tabulated by third-party software (detailed below) or by contracting with Hart InterCivic to create separate tabulation software.

- **Unisyn Voting**
  - **Election Management System compatible with RCV:** OpenElect
  - **Voting Equipment compatible with RCV:** OpenElect OVO, OpenElect FVT, OpenElect OVI-VC, OpenElect OVCS, OpenElect OCS
  - **RCV Ballot Design:** Grid | Up to 3 rankings
  - **RCV Tabulation:** Single-winner RCV | Built-in tabulation
  - **Symposium Summary:** Unisyn's OpenElect was the first integrated VVSG certified voting system to support RCV (January 2010). OpenElect allows up to three rankings using a grid-style ballot. Both RCV and non-RCV contests can be placed on the same ballot through this system. Vote data is collected and cast vote records are uploaded into the

tally system. The tally system allows the official to select rules for invalid rankings and tiebreaking. Current tabulation is for single-winner RCV, with multi-winner RCV under development.

Other Voting Systems

Three other vendors provide voting systems to a limited number of U.S. jurisdictions: **Clear Ballot, MicroVote, and Smartmatic**. These systems do not currently have RCV ballot design or tabulation.

RCV Capabilities of Legacy Voting Systems

While nearly all of the latest voting systems in use in the U.S. have RCV capabilities, determining the capabilities of the previous generation of voting systems, which we refer to as legacy systems, is more difficult. A legacy voting system's RCV capability is dependent upon the configuration of the hardware, firmware, and software, which vary by vendor; when the system was purchased or leased; and firmware or software upgrades that may have been performed since purchase. Built-in RCV capability or the ability for the voting system to generate cast vote records (CVR) also impacts a voting system's RCV capability.[1]

Ballot design and tabulation (by third-party software) are possible with the following voting systems:

- **ES&S iVotronic:** RCV ballots can be cast through the **iVotronic**. The system can capture and export CVRs, making it the only RCV-capable legacy voting equipment from ES&S. CVR files can be extracted from the voting equipment for tabulation by a third-party tabulation system.
- **Hart InterCivic's** previous voting system, HVS software with compatible hardware **Ballot Now** (high speed scanner), **eScan** (optical scan), and **eSlate** (DRE), does not have built-in RCV tabulation. RCV ballots can be designed for this system with the HVS software, and CVR files can be extracted from the voting equipment for tabulation by a third-party tabulation system.
- **Sequoia (Dominion)[2] AVC Advantage, AVC Edge, and Optech** models are capable of generating CVR data using column-style RCV ballots for third-party RCV tabulation.

Ballot design only:

- **Premier/Diebold (Dominion)[3] AccuVote** models generate ballot data in PDF format but do not generate software-readable CVR data, which limits the ability to tabulate RCV contests without

---

[1] Voting system is an umbrella term for the hardware, firmware, and software used in elections, which are broadly defined as: hardware, the voting equipment machines used to cast a ballot; firmware, installed in voting equipment to make the machines compatible with the software; and software, used to design and tabulate ballots. Cast vote records are data of the votes cast. If these anonymous, secure records can be extracted from the voting system, then a third-party software or application can be used to tabulate RCV results.

[2] Sequoia Voting Systems was acquired by Dominion Voting Systems in 2010.

[3] Premier Election Solutions, previously Diebold Election Systems, was acquired in 2009 by ES&S and was partially acquired by Dominion Voting Systems in 2010 after an antitrust ruling.

converting the PDF files into software-readable data. While this is feasible, it has not yet been demonstrated and is not supported by Dominion.

Third Party Support for RCV Elections

A number of groups provide RCV tabulation support or have developed applications for RCV tabulation. The two most prominent are:

- **MK Election Services** uses ChoicePlus Pro to tabulate RCV results from CVRs generated by voting systems in Cambridge, MA, and Portland, ME.
- **Bright Spots** is a cutting-edge group based in San Francisco, working to use technology to promote democracy. This group is helping the RCVRC to develop the RCVRC Tabulator software outlined below.

RCVRC Tabulator

The RCVRC and Bright Spots have developed the RCVRC Tabulator, software that can take cast vote records (CVRs) from all voting equipment capable of exporting such records in data file format and tabulate RCV results from those CVRs. The RCVRC tabulator is planned to be adaptable to as many RCV jurisdictions as possible using current or legacy voting equipment. It will also allow for tabulation and aggregation of RCV results when multiple voting systems are used (i.e., a statewide election or an election across county lines).

The Tabulator has been used to successfully verify RCV elections results in the 2018 Maine elections as well as 2013 and 2017 Minneapolis RCV elections. It was also used in Benton County, OR, to verify the ES&S tabulation module during its local certification process.

Evaluation by an EAC-approved testing lab is expected by mid-2019. The RCVRC Tabulator is free, open-source software available through https://www.rankedchoicevoting.org/universal_rcv_tabulator.

Version Date: 5/29/2019

VENDOR	VENDOR WEBSITE	HEADQUARTERS
UNISYN VOTING	www.unisynvoting.com	2310 Cousteau Court, Vista, CA 92081
HART INTERCIVIC	WWW.HARTINTERCIVIC.COM	15500 Wells Port Drive, Austin, TX 78728
ELECTION SYSTEMS & SOFTWARE (ES&S)	WWW.ESSVOTE.COM	11208 John Galt Blvd., Omaha, NE 68137
DOMINION VOTING	www.dominionvoting.com	1201 18th Streeet, Ste 210, Denver, CO, 80202; 215 Spadina Ave, Toronto, ON M5T 2C7, Canada

NOTE: The Voting Systems RCV Capability Table will be expanded to include additional vendors and third-party tabulation. The information presented is for the four largest voting system vendors, which are also the vendors with RCV capabilities, as of 5/29/2019.

NOTE: The information presented is for the voting system vendors with RCV capabilities as of 5/29/2019.

Version Date: 5/29/2019	VOTING SYSTEMS CAPABILITY FOR RANKED CHOICE VOTING (RCV)							
VENDOR	**SOFTWARE/ELECTION MANAGEMENT SYSTEM (EMS)** *Note: Version should be confirmed with vendor.*	**VOTING EQUIPMENT COMPATIBLE WITH RCV**	**CAN SOFTWARE/EMS BE USED TO DESIGN RCV BALLOT?**	**TYPE OF RCV BALLOT DESIGN**	**MAXIMUM NUMBER OF RANKINGS**	**CAN SOFTWARE/EMS TABULATE RCV?**	**MULTI-WINNER RCV CAPABLE?**	**SUMMARY FROM APRIL 2018 RCV SYMPOSIUM**
UNISYN VOTING								
	OpenElect	**OpenElect OVO OpenElect FVT OpenElect OVI-VC OpenElect OVCS OpenElect OCS**	**Yes**	**Grid**	**3**	**Yes**	**Not currently**	Unisyn's OpenElect was the first integrated VVSG certified voting system to support RCV (January 2010). OpenElect allows up to three rankings using a grid-style ballot. Both RCV and non-RCV contests can be placed on the same ballot through this system. Vote data is collected and cast vote records are uploaded into the tally system. The tally system allows the official to select rules for invalid rankings and tiebreaking. Current tabulation is for single-winner RCV, with multi-winner RCV under development.
HART INTERCIVIC								
	Verity (2.0 & higher)	**Verity Scan Verity Touch Verity Touch Writer Verity Central Verity Duo**	**Yes**	**Grid (paper) EAC/AIGA touchscreen "Design for Democracy" (electronic ballots)**	**6**	**No Tabulates first round. Additional rounds must be tabulated with customized software or third-party software**	**Not currently**	Hart's Verity system can be used to create and record a ballot with RCV contests. Verity Scan and Verity Central (paper ballot scanners), Verity Touch (DRE), and Verity Touch Writer (accessibility ballot marking) can process selections and record cast vote records for RCV contests. In the Verity Data software, the election official/user makes ballot design specifications and sets the voting logic for each contest, including a selection option for ranked choice. Additional election data entry allows the official to designate both RCV and non-RCV contests and determine the contest order. The system allows for up to six rankings in an RCV contest. The Verity system does not offer full RCV tabulation. The system provides vote tabulation for the first round of an RCV contest, then subsequent rounds must be tabulated by third-party software (detailed below) or by contracting with Hart InterCivic to create separate tabulation software.
ES&S								
	Electionware	**DS200 DS450 DS850 ExpressTouch ExpressVote AutoMARK**	**Yes**	**Grid or Column**	**21 (portrait ballot) 23 (landscape ballot)**	**Yes Through ExpressRunoff (separate ES&S module)**	**Not currently**	ES&S's Electionware election management system, and compatible equipment, offers RCV ballot design, capture, and tabulation. ES&S's system can produce a ballot with both RCV and non-RCV contests, for single-winner and multi-winner contests. Ballots can be in landscape or portrait layouts and use grid or column designs for RCV contests. Cast vote records can be exported for tabulation in the company's separate module, ExpressRunoff, which is currently limited to single-winner RCV. See "RCVRC Tabulator" below for information on tabulating multi-winner contests. Reports are generated showing round by round tabulation in an Excel spreadsheet and are time stamped. A comprehensive report may also be selected.
DOMINION VOTING								
	Democracy Suite (5.2 & higher)	**ImageCast Evolution ImageCast Precinct ImageCast Central ImageCast Remote**	**Yes**	**Grid**	**10**	**Yes**	**Yes**	Dominion Voting offers built-in RCV tabulation with its Democracy Suite software, beginning with Version 5.2, in combination with its ImageCast voting equipment. Dominion's system can produce a ballot with both RCV and non-RCV contests. The system allows for up to 10 rankings in a grid-style ballot. To tabulate, RCV ballot data from voting equipment is loaded into the Democracy Suite system with other election contest data. Using the built-in RCV tabulation software, officials select to run the RCV algorithm to generate real time results for single-winner or multi-winner RCV. The system can continually update the results as additional ballot data is added. Results reports are available round-by-round and by district.

Rob Richie, President and CEO, FairVote provided the following information:

FairVote

August 10, 2021

Nicole Galloway
State Auditor of Missouri
301 West High Street, Room 880
Jefferson City, MO 65102 moaudit@auditor.mo.gov

RE: PETITIONS 22-051 AND 22-052

Dear Auditor Galloway,

I'm president and CEO of FairVote, a nonpartisan, nonprofit organization that has been a leading advocate and analyst of ranked choice voting since I helped found the organization as its executive director in 1992. I have been closely involved in a number of implementations of ranked choice voting over the past two decades; ranked choice voting will be used in the next elections held by two states and more than 50 cities and counties in the United States.

I am writing about the estimated fiscal impact of initiative petitions 22-051 and 22-052. The Ranked Choice Voting Resource Center, a nonpartisan organization that is run by former election officials with experience in ranked choice voting in statewide and local elections, has engaged in a comprehensive analysis of ranked choice voting in Missouri. Its analysis shows that at least 107 of Missouri's 116 local election authorities have voting machines that are compatible with ranked-choice voting methods.

If passed, petitions 22-051 and 22-052 would not take effect until elections in 2023 or later. Public records show that Missouri jurisdictions that lacked ranked-choice voting-compatible machines when the Resource Center's report was completed are in the process of securing deploy new, modern machines — with or without passage of 22-051 and 22-052.

I will note that estimates of the costs of implementation of ranked choice voting often skew high, and actual costs will depend on decisions made by election officials. For example, the official fiscal note from Maine election officials before and after its voters passed ranked choice voting in 2016 was more than $1.5 million. The actual costs in the June 2018 statewide primary elections for governor and other state and congressional primaries were less than $100,000. When North Carolina election officials learned in August 2010 they had to run a statewide ranked choice election in November 2010 for a judicial vacancy election with 13 candidates, they found a way to do so within their current budget.

Any taxpayer costs associated with voter education also are not intrinsic to adoption of ranked choice voting. Some jurisdictions like Maine have adopted and implemented ranked choice voting with virtually no extra money spent on voter education, and voters in those jurisdictions have handled the new system very well if, as in Maine, the state develops a good ballot design with its vendors.

In short, given what we know about Missouri and given the history of implementation of RCV in other states and cities, we agree with estimates from the Ranked Choice Voting Resource Center that the

FairVote Board of Directors: Alice Underwood (Chair)
Cynthia Okechukwu ○ Brenda Choresi Carter ○ Tim Hayes ○ Jennifer Nassour
David Wilner ○ Donald Marron ○ Mark de la Iglesia

fiscal impact of 22-051 and 22-052 are to be between $0 and $2.5 million.

If you have any questions about my submission and our experience with ranked choice voting implementation, I can be reached at rr@fairvote.org, (301) 270-4616.

Sincerely yours,



Rob Richie
President and CEO

FairVote Board of Directors: Alice Underwood (Chair)
Cynthia Okechukwu ○ Brenda Choresi Carter ○ Tim Hayes ○ Jennifer Nassour
David Wilner ○ Donald Marron ○ Mark de la Iglesia

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College,** and the **Clay County Board of Election Commissioners.**

Fiscal Note Summary

State and local governmental entities estimate costs of $2.7 million to at least $5.2 million in one-time costs, and ongoing costs of at least $27,000 annually, $170,000 each primary election, $152,000 each general election, and $117,000 for all other elections. State governmental entities estimate revenues of $50,000 every other year.

RECEIVED
JUL 3 0 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 30, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from David Roland regarding a proposed constitutional amendment to Article VIII, version 1 (2022-051)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by David Roland on July 30, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

22-051

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INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:_____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

NOTICE: The proposed amendment revises Article VIII of the Constitution by adopting six new Sections to be known as Article VIII, Sections 24, 25, 26, 27, 28, and 29.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article VIII of the Constitution is revised by adopting six new Sections to be known as Article VIII, Sections 24, 25, 26, 27,28, and 29 to read as follows:

Section 24. 1. Every voting machine used to conduct an election in the State of Missouri shall be tested and certified as secure prior to each election in which the machine will be used. Such testing and certification shall meet all federal standards.
2. Every voting machine used to conduct an election in the State of Missouri shall produce an individual, permanent paper record for each vote cast, which shall be made available for inspection and verification by the voter at the time the vote is cast. Such individual, permanent paper record shall be preserved for use in any election audit.
3. The candidate or their designee shall have the right to be present whenever paper ballots or the permanent paper records produced by electronic voting machines are counted, audited, or placed in storage.

Section 25. 1. Beginning at the August 2024 primary election, and notwithstanding any other provision of law to the contrary, primary elections for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress shall be open primaries where the four candidates for each office receiving the most votes advance to the general election.
2. Primary ballots for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress shall meet the following criteria:
(1) All candidates for an office shall appear on a single ballot.
(2) Primary ballots shall include space for a write-in candidate for such offices.
3. In the primary election for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress, a qualified voter shall be permitted to cast a vote for any candidate for whom that voter is otherwise eligible to vote. A qualified voter shall only vote for one candidate for each office.
4. The four candidates for each office receiving the most votes in the primary election shall advance to the general election for that office. Only those candidates shall appear on the general election ballot.
5. If two or more candidates receive an equal number of votes for the same office, such that there is a tie for fourth place, such candidates or their designees shall have the right to draw lots to determine whose name shall appear on the general election ballot. If a candidate declines to participate, the election authority may draw lots on their behalf.

Section 26. 1. For the purposes of this section, the following terms mean:
(1) "Active Candidate", a candidate who has not been eliminated during an instant runoff tabulation.
(2) "Overvote", a vote in which the qualified voter has indicated a preference for more than one candidate at the same placement order.
(3) "Order" or "Placement Order", the number a qualified voter assigns to a candidate indicating that voter's preference, with 1 being the highest placement order and 4 being the lowest placement order.
2. Beginning at the November 2024 general election, and notwithstanding any other provision of law to the contrary, general elections for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress shall be instant runoff elections in which a qualified voter may indicate their preferred candidate order on the ballot.
3. In a general election conducted under this section, each ballot shall count as one vote for the highest-ordered, Active Candidate on that ballot.
4. If, after the initial tabulation, an Active Candidate receives a majority of the votes cast, that candidate is elected and tabulation is complete.
5. If, after the initial tabulation, an Active Candidate has not received a majority of the highest-ordered votes cast, votes shall be tabulated as follows:
(1) The candidate receiving the fewest number of votes shall be eliminated.
(2) For each ballot cast for an eliminated candidate, the official conducting the tabulation shall determine the highest-ordered, Active Candidate on the ballot. The vote cast on that ballot shall be added to the total number of votes received by that Active Candidate.
(3) Votes shall be tabulated pursuant to subdivisions (1) and (2) of this subsection until an Active Candidate receives the majority of the remaining votes.
6. If a ballot has a placement order that does not contain any candidate, and there are no Active Candidates at a higher placement order, the ballot shall count as a vote for the highest-ordered Active Candidate listed after that placement order, if any.
7. Ballots shall not be included in the tabulation process in subsection 5 only if:
(1) The ballot does not include an Active Candidate at any placement order; or
(2) The ballot contains an Overvote that includes the highest-ordered, Active Candidate at any point during the tabulation process.
8. If two or more candidates are tied with an equal and lowest number of votes, and the tabulation in subsection 5 cannot continue until the candidate with the lowest number of votes is eliminated, the candidate to be eliminated shall be determined by such candidates or their designees drawing lots to determine who shall be eliminated. Should a candidate decline to participate, the election authority shall draw lots on their behalf.
9. Ballots shall be laid out to allow voters to indicate their preferred candidate order. The ballot shall be simple and easy to understand, consistent with best practices.
10. Instructions on the general election ballot shall include the following statement: "You may mark up to four choices in order of preference. Marking a second choice cannot help defeat your first choice. Marking a subsequent choice cannot help defeat your higher-ordered choices."

11. Beginning at least one hundred twenty days before the first election utilizing the instant runoff system, the Secretary of State and local election authorities shall conduct a voter education campaign to familiarize voters with the instant runoff voting system.
12. Notwithstanding any other provision of law to the contrary, the aggregated vote totals from the initial tabulation shall be used, as may be required by any other law, for the purposes of identifying the two major political parties.

Section 27. 1. Beginning August 1, 2024, and notwithstanding any other provision of law to the contrary, a special election shall be called to fill any vacancy in a statewide office, office of member of the Missouri General Assembly, and office of member of the United States Congress.
2. A special election to fill a vacancy in any such office shall be conducted pursuant to the primary and general election processes described in Sections 25 and 26 of this Article.

Section 28. The Secretary of State shall issue rules and regulations necessary to implement Sections 24 to 27 of this Article. No rule or portion of a rule promulgated under the authority of such Sections shall become effective unless it has been promulgated pursuant to the requirements provided by law.

Section 29. If any provision of Sections 24, 25, 26, or 27 or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-051)

Subject

Initiative petition from David Roland regarding a proposed constitutional amendment to Article VIII. (Received July 30, 2021)

Date

August 19, 2021

Description

This proposal would amend Article VIII of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Christopher W. Hughes, Esq., Policy Director, Ranked Choice Voting Resource Center provided information to the State Auditor's office.

Adam Podowitz-Thomas, Senior Legal Strategist, Electoral Innovation Lab provided information to the State Auditor's office.

Eric H. Bronner, Founder/Executive Director, Veterans for Political Innovation provided information to the State Auditor's office.

Benjamin D. Singer, Executive Director, Show Me Integrity provided information to the State Auditor's office.

Alex Kaplan, Vice President of Policy and Campaigns, and David O'Brien, Policy Counsel, Represent Us provided information to the State Auditor's office.

Rob Richie, President and CEO, FairVote provided information to the State Auditor's office.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated they do not foresee a fiscal impact upon the passage of this petition.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article VIII, version 1, with their assumption that the initiative petition only relates to general and primary elections.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department, Director's Office.

Officials from the **Department of Social Services** indicated this will not have a fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to elections should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition should not have a fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to elections should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this ballot measure would alter the method of elections for statewide offices, Congressional seats, and members of the General Assembly.

Under the current model, each party runs candidates on its own ticket, with the top vote-getter from each party advancing to the general election, joined by any independent or write-in candidates. The proposed measure would instead have candidates of all parties as well as write-ins (independent candidates are not addressed) appear on one primary ticket,

with the four highest vote-getters advancing to the general election. Such general election would then be conducted using ranked-choice voting.

There are four potential areas of expense which could be incurred in implementing this measure: ballot production costs, the required public education campaign, reprogramming of the state election management system, and replacement of voting machines. The state may be required to pay any or all of these costs under Article X, Section 21 of the Missouri Constitution.

It is anticipated that if an open primary system is put in place, local election authorities could expect some election cost savings due to the reduced number of ballot styles (though these savings could be lessened or overshadowed by an increased cost for printing larger individual ballots). Since the state shares proportional costs for primary elections, any costs or savings by the local election authorities (LEAs) will be shared to a lesser degree by the state in odd-numbered fiscal years. However, due to the scope of the changes that would be involved in instituting this system, the amount of costs or savings to the state is considered to be unknown at this time.

This measure would require their office to conduct a voter education campaign to familiarize voters with the instant runoff voting system and ranked-choice ballots. The precise cost of such a campaign would vary depending on strategic decisions and appropriation by the General Assembly. A statewide educational campaign is estimated to reach or exceed $2,000,000 (one-time cost) beginning in fiscal year (FY) 2024.

Additionally, the Missouri Centralized Voter Registration program (MCVR) would need to be modified to accept ranked-choice vote totals. The total numbers of each different ballot ranking combination would need to be tabulated in MCVR from the LEAs before the instant runoff process could take place, especially in the case of statewide races. This would require programming resources to be devoted beyond those covered under the normal maintenance and upkeep contracts. Labor costs to program this modification are estimated by the vendor at $46,000, to be executed in FY 2023 or FY 2024 in preparation for the time when ranked-choice voting begins in November 2024.

Finally, in order to properly handle ranked-choice ballots, all voting equipment statewide must either be updated with code which allows ranked-choice voting or be replaced with ranked-choice-compatible machines. Since reprogramming can reasonably be considered a lesser cost than full replacement, they present the replacement cost as a maximum for this potential expense. The latest voting systems survey, conducted in 2020, found 5,735 pieces of election equipment in service statewide. At an average replacement cost of $5,000 per machine, this could result in a cost of up to $28,675,000 in FY 2023 or FY 2024.

Each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated no fiscal impact to their office from this initiative petition.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following costs as a result of this initiative petition:

- ~$20,000 **onetime** software expense to update both primary and general election ballots as well as produce the paper record for each vote in Section 24.2
- ~$25,000 each primary election to print each paper record under 24.2
- ~$25,000 each general election to print each paper record under 24.2
- ~$5,000 each primary election for poll workers to assist with voter inspection of records under 24.2
- ~$10,000 each general election for poll workers to assist with voter inspection of records under 24.2
- ~100,000 for **onetime** software upgrades to fulfill the instant runoff tabulation provisions of Section 25.5-7

- ~$10,000 of **onetime** software upgrades to determine aggregate vote totals by party under Section 26.12
- ~5,000 in **onetime** training costs for workers
- ~$10,000 in **onetime** voter education costs under Section 26.11

In sum, ~$145,000 in onetime costs and ~$65,000 in recurring costs every even election year (both primary and general).

Officials from **Greene County** indicated the fiscal note for this initiative petition is uncertain in Section 24, due to the undefined terminology for "voting machine." Depending on how courts interpret the term "every voting machine," costs for their county could range into the hundreds of thousands of dollars to zero.

In Section 25 the costs will be ongoing and are estimated to be a minimum of $23,000 per August primary.

Here is a general breakdown:

Election Equipment Testing Estimate Costs:

DS200 Testing Hours: **$3,620.62**

ExpressVote Testing Hours: **$3,070.53**

Total for Equipment Testing: **6,691.15**

August Primary Estimated Costs:

In an August Election open primary with a single ballot type (all parties and issues, instead of five partied ballots and one issues only ballot), with write-in lines the cost is estimated to be: **$16,651.95.**

Officials from the **City of Kansas City** indicated this petition has no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **St. Louis County Board of Elections** indicated their Board of Elections estimates this would have the following impact: $100,000 one-time costs for Voter Education Campaign.

Officials from the **Board of Election Commissioners City of St. Louis** indicated the fiscal impact would be the cost of a new voting system, as the current voting system they have cannot tabulate ranked choice voting.

They are in the process of acquiring a new voting system, and, more than likely, the system they obtain will be able to handle this.

The cost of a new voting system is upwards of $5 million.

Officials from the **Kansas City Board of Election Commissioners** indicated there are many costs and concerns associated with this amendment. They are described below:

1) Petitions must be checked. Staff overtime and additional temporary staff expenses may be incurred at an estimated cost of $15,000 to $40,000 because based on how rank choice works the ballots have to be separated and stacked for retabulation. They would bring in temps and incur staff overtime to process the statewide petitions. It would be done one-time only.

2) An election in the Kansas City portion of Jackson County costs roughly $625,000. This cost will be prorated among all the entities that participate in that election, based on voter registration.

3) If this election becomes law, then their computers used for tabulation would have to be sent back to the vendor and the hardware wiped clean and the new software would be installed for $15,000 (one-time cost). The software for the ballot marking devices must be upgraded and installed by the vendor. Cost is estimated between $25,000 to $50,000 (one-time cost).

4) Public notice would need to be sent to all voters or published in newspapers at an estimated cost of $25,000 to $100,000 to provide detailed information of the new process. These cost would be for at least a year until the public grasps what is going on.

5) Election day Judge and staff training would be estimated at $35,000 per election.

6) Additional security required for election night and days after the elections through certification due to the unrest that will be caused by the lack of understanding of rank choice and how it works. Estimated cost $25,000 per election.

In addition, each election they will have to spend $3,500 for assistance with tabulation of every election. It is ridiculous that they will not be in charge of tabulating any more elections if this system is put into place.

Also, additional mailers will be required for voter instructions up to $50,000 per election.

Officials from the **Platte County Board of Elections** indicated this proposal has no clear fiscal impacts. The testing requirement is presumably different from any testing they currently do, so it may result in unknown costs.

Officials from the **Jackson County Election Board** indicated:

Assuming additional steps may be required to meet the stated federal standards requested in this petition, the Board may have costs associated with this requirement. Currently, JCEB follows the rules set for by the Missouri Secretary of State: 15 CSR 30-10.120, 15 CSR 30-10.130, 15 CSR 30-10.140, 15 CSR 30-10.150 and 15 CSR 30-10.160.	$5,000.00
Potential Software Cost	$5,000.00
Ranked Choice Voting Election Day Support of Vendor - per year	$27,000.00
Additional Staff - Depending on Election - per election	$4,000.00 - $6,000.00
Ranked Choice Voting - Voter Education - Mailers - Printing - Postage	$80,000 - $150,000.00
Reprinting of Voting Instruction Material	$5,000.00
Additional Voting Equipment	$500,000.00
Estimated Cost for Jackson County Election Board	$626,000.00 - $698,000.00
Per year or per election ongoing costs	

Christopher W. Hughes, Esq., Policy Director, Ranked Choice Voting Resource Center provided the following information:

RANKED CHOICE VOTING RESOURCE CENTER

ELECTION ADMINISTRATION RESOURCE CENTER

August 11, 2021

Nicole Galloway
State Auditor of Missouri
301 West High Street, Room 880
Jefferson City, MO 65102
moaudit@auditor.mo.gov

RE: PETITIONS 2022-051 AND 2022-052

Dear Auditor Galloway,

We are writing on behalf of the Ranked Choice Voting Resource Center regarding the estimated fiscal impact of initiative petitions 2022-051 and 2022-052, which would bring Top 4 open primaries and instant runoff voting ("IRV," sometimes referred to as "ranked-choice voting") to Missouri elections. The Ranked Choice Voting Resource Center is a 501(c)(3) nonprofit organization that provides information, research, and tools to teach the public about ranked-choice voting. The staff of the Resource Center have decades of election administration experience and experience overseeing ranked-choice voting elections at all levels of government. Our nationally recognized center is regarded as the premier ranked-choice voting resource for voters, election administrators, policymakers, and candidates.

We recently conducted a statewide analysis of Missouri's voting equipment in our Missouri RCV Administrative Assessment (https://bit.ly/Missouri-RCV-Admin). In our analysis, we found that 107 of 116 local election authorities (106 counties and one city) in Missouri have RCV capable equipment: equipment that can now, or after a software update, be used to hold ranked-choice voting elections. In these counties, hardware purchases are not necessary to add RCV capability. Software upgrades, however, may be necessary and will need to have their costs negotiated directly with the vendors providing equipment to each local election authority. We do not know how many of these election authorities will need to update their software nor how much it may cost any one authority to make upgrades, so we do not estimate those costs here.

Eight local election authorities (seven counties and one city) have legacy voting equipment – equipment at the end of its usable lifespan – and one local election authority (one county) hand counts its elections. The eight election authorities with legacy voting equipment should replace that equipment soon as it is at the end of its usable lifespan. All modern voting equipment available today includes ranked-choice voting capability. By replacing that legacy equipment, these election authorities will also gain ranked-choice voting capability. The hand count county can conduct ranked-choice voting elections by hand though we suggest using voting equipment to speed up the counting process considerably.

833 VOTE RCV
833 868 3728
info@rcvresources.org
www.rcvresources.org

RANKED CHOICE VOTING RESOURCE CENTER

ELECTION ADMINISTRATION RESOURCE CENTER

A previous fiscal note for Petition 2022-19 estimated that purchasing a single voting machine would cost $5,000. Based on publicly available information about voting machines used in the state, we estimate that there are 453 voting machines to be replaced in the eight local election authorities with legacy voting equipment. Replacing all legacy voting equipment in Missouri and purchasing equipment for the hand count county at a rate of $5,000 per machine will cost approximately $2,270,000. We reiterate, however, that this legacy voting equipment should be replaced regardless of whether ranked-choice voting is adopted in the state.

The Board of Aldermen in St. Louis City have passed a bill that includes $5,000,000 for the Board of Elections for the City of St. Louis to update election hardware, software, and IT infrastructure, among other upgrades. Page 13, Line 17: https://www.stlouis-mo.gov/government/city-laws/upload/legislative/boardbills/floor-amended/BB%202%20CSAA%20Combined%20Perfected%202.pdf. If passed, this bill would enable St. Louis City, the largest election authority among those with legacy voting equipment, to replace its 300 pieces of legacy equipment with modern, RCV capable equipment. If passed, this would bring our total cost estimate down to $765,000.

Based on this analysis, the fiscal impact of 22-051 and 22-052 for purchasing RCV capable equipment will be between $0 and $2,270,000 in one-time costs.

Thank you for your consideration of this submission. If you have any questions, please contact the Ranked Choice Voting Resource Center at info@rcvresources.org or 1-833-VOTE-RCV (1-833-868-3728).

Sincerely,

Chris Hughes
Policy Director

833 VOTE RCV
833 868 3728
info@rcvresources.org
www.rcvresources.org

Adam Podowitz-Thomas, Senior Legal Strategist, Electoral Innovation Lab provided the following information:

August 5, 2021

Nicole Galloway
State Auditor of Missouri
301 West High Street, Room 880
Jefferson City, MO 65102
moaudit@auditor.mo.gov

RE: PETITIONS 2022-051 AND 2022-052

Dear Auditor Galloway,

We write today regarding the estimated fiscal impact of initiative petitions 22-051 and 22-052, two bills that would implement a new ranked-choice voting election scheme to elections conducted in Missouri.

We are Dr. Sam Wang, professor at Princeton University and the Director of the Princeton Gerrymandering Project and Electoral Innovation Lab, and Adam Podowitz-Thomas, Senior Legal Strategist for the Lab. The Electoral Innovation Lab takes an engineering-like approach to democracy repair. We use theory and analysis to anticipate how problems in representation, engagement, and depolarization can be solved before they become widespread. This comprehensive approach is used to develop policy reforms, inform legal scholarship and academic research. Ultimately, we seek to test proposed policies: legislative actions, election rules, redistricting optimization, and community strategies. In recent years we have applied our investigational methods to voting reforms, including ranked-choice voting in Maine and Alaska.

Many other jurisdictions have experience implementing ranked-choice voting systems and have done thorough fiscal impact analyses thereof, and can provide some evidence of costs should Missouri implement this voting system.

Implementation costs in other states and cities: $400,000 to $1.1 million

Maine implemented ranked-choice voting in 2018. The state analyzed the costs of implementing the new system during the first year and found that the total fiscal impact to the state was $441,804, the largest portion of which was actually the requirement to print a separate ballot to run a referendum measure on an unrelated matter.[1] Voters in Alaska recently approved similar

[1] See https://www.maine.gov/sos/cec/elec/upcoming/pdf/rcv.costs.2018.pdf

voting reforms to those under consideration in Missouri. The state's official estimate of costs for needed ballot tabulation equipment was only $534,300.[2]

A pending bill in Colorado, which would implement ranked-choice voting in Colorado's all-mail balloting system, was analyzed by that state's legislative council staff. Their estimate of the cost of implementation in the first year was $580,000, with costs for continuing operation decreasing each subsequent year, to a low of $70,500 in the fourth year of implementation.[3]

Some cities in California have utilized ranked-choice voting for many years. One analysis done by Alameda County (where Oakland and Berkeley are located) regarding the implementation of RCV during the 2010 election cycle found that costs for initial implementation would be $1,135,604 during the first year, including a voter education campaign.[4]

Missouri implementation costs are potentially less than $1.0 million

A comprehensive analysis conducted by the experts at the Ranked Choice Voting Resource Center shows that at most 9 out of 116 local election authorities in Missouri have voting machines that are incompatible with ranked-choice voting methods. That report notes that "92% of Missouri's jurisdictions have modern, RCV-capable voting equipment."[5]

As a worst-case scenario, the fiscal impact 22-049 and 22-050 would arise from replacing voting machines in all 9 jurisdictions currently lacking machines, for an estimated total of $2.5 million. However, in these 9 jurisdictions, many machine upgrades are already planned even without any new laws, and will likely be done by the time 22-049 and 22-050 would take effect, after the 2022 cycle. Public records show that jurisdictions without ranked-choice voting-compatible machines are already working to purchase and deploy new, modern machines. In particular, in St. Louis City, home to over two-thirds of the people living in the 9 jurisdictions requiring updated machines, local leaders intend to use funds received from the American Rescue Plan Act of 2021 "for the purposes of updating Election Hardware, Software, IT infrastructure."[6] Therefore we estimate that the necessary purchases of voting machines above and beyond such planned upgrades have the potential to fall **below $1.0 million**.

In addition, we note that there will be an unknown amount of savings in future years because the primary election will require only one ballot instead of one for each partisan primary, as is now the case.

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[2] See https://www.elections.alaska.gov/petitions/19AKBE/19AKBEStatementOfCosts.pdf
[3] See http://leg.colorado.gov/sites/default/files/documents/2021A/bills/fn/2021a_hb1071_r3.pdf
[4] See https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/2010/02Feb/2010-02-09_Item_16a_Council_Findings_for_Ranked_Choice_Voting.pdf
[5] See: https://bit.ly/Missouri-RCV-Admin
[6] See https://www.stlouis-mo.gov/government/city-laws/board-bills/boardbill.cfm?bbDetail=true&BBId=13789

Thank you for your consideration of this submission. If you have any questions, please do not hesitate to call us at (609) 258-0388 or email us at sswang@princeton.edu or podowitz-thomas@princeton.edu.

/s/ Samuel Wang

Prof. Samuel S.-H. Wang
Director
Electoral Innovation Lab
Neuroscience Institute, Washington Road
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/s/ Adam Podowitz-Thomas

Adam Podowitz-Thomas, Esq.
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Green Hall
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Princeton, NJ 08544

Eric H. Bronner, Founder/Executive Director, Veterans for Political Innovation provided the following information:

★ VETERANS ★
FOR POLITICAL INNOVATION

Mobilizing the Military-Connected Community for Powerful Electoral Reforms

July 23, 2021

The Honorable Nicole Galloway
State Auditor of Missouri
301 West High Street, Room 880
Jefferson City, MO 65102
moaudit@auditor.mo.gov

RE: PETITIONS 2022-049 AND 2022-050

Dear Auditor Galloway,

I am writing to you today as the founder and Executive Director of Veterans for Political Innovation regarding the estimated fiscal impact of initiative petitions 22-049 and 22-050. These initiative petitions, if passed, would bring Top-4 single-ballot primaries and ranked choice voting ("RCV"), (sometimes referred to as instant runoff voting or "IRV"), to Missouri elections.

Veterans for Political Innovation (VPI) is a fiercely cross-partisan national nonprofit, based out of our "shedquarters" in Webster Groves, Missouri. VPI exists to educate and inspire the military-connected community to mobilize and advocate for three, targeted nonpartisan electoral reforms, including this innovative "Top-4" voting reform package. VPI will be mobilizing one of America's most trusted groups, as strategic assets, to help restore trust in American democracy through reforms that create better, more competitive elections.

First, it is important to note that, based on the lessons learned from other states, oftentimes, ranked choice voting (RCV) costs less to implement than expected. For example, voters in Alaska recently approved a similar "Top-4" / instant runoff voting reform package in November 2020. Their official estimate of costs for needed ballot tabulation equipment was only $534,300. *(See* Alaska Office of Management and Budget: Estimate of Costs for 19AKBE).

The vast majority of Missouri's Local Election Authorities are ready, willing and able to implement ranked choice voting. Indeed, a comprehensive analysis conducted by the experts at the Ranked Choice Voting Resource Center shows that **at least 107 of 116 local election authorities in Missouri have voting machines that are compatible with ranked-choice voting methods**. In that report, we see that "92% of Missouri's jurisdictions have modern, RCV-capable voting equipment." (*See:* Missouri: Ranked Choice Voting State Readiness Assessment, 2021 Edition)

Furthermore, some jurisdictions are already moving forward with voting machine upgrades. If passed, petitions 22-049 and 22-050 would not take effect until elections after the 2022 cycle. We know from public records that some jurisdictions, who did not have ranked choice voting-compatible machines at the time the above-reference report was completed, are actively working to purchase and deploy new, modern machines — with or without passage of 22-049 and 22-050. For example, in St. Louis City, local leaders intend to use funds received from the American Rescue Plan Act of 2021 " for the purposes of updating Election Hardware, Software, IT infrastructure." (*See* St. Louis City Board Bill 2 (2021 - 2022)

Given the widespread use of RCV compatible machines in Missouri, along with yet to be determined machine upgrades that will happen with or without passage of 22-049 and 22-050, reputable sources who have analyzed Missouri's elections and voting systems ***estimate that the fiscal impact 22-049 and 22-050 likely will be between $0 and $2,264,537.***

Thank you for your public service, and for your time and consideration of this submission. If you have any questions, please do not hesitate to contact me at: 314.222.0477 or eric@v4pi.us.

Sincerely,

Eric H. Bronner
Founder | Executive Director
Veterans for Political Innovation

Benjamin D. Singer, Executive Director, Show Me Integrity provided the following information:

July 23, 2021

State Auditor Nicole Galloway
301 West High Street, Room 880
Jefferson City, MO 65102

To Auditor Galloway:

I write regarding **fiscal note analysis for initiative petitions 2022-049 and 2022-050** on behalf of Show Me Integrity, Missouri's good government and political reform organization. Our board includes Republicans, Democrats, and independents all committed to a more effective, ethical government of, by, and for the people.

We are Missouri's leading authority on modern voting methods. That is because, **from 2019 to 2021, we led a coalition through Missouri's first and only successful policymaking process, campaign, and implementation of a modern voting system called "approval voting,"** which we did in the City of St. Louis. Previously, St. Louis often elected leaders with less than 40% of the vote in the party primary, and no competitive general election. This left politicians with no mandate to govern, giving special interests greater ability to wield undue influence in city politics.

We explored both approval voting and ranked-choice voting. We consulted closely for months with local election authorities and national experts, including the Ranked Choice Voting Resource Center. After our analysis, we concluded that the City of St. Louis election machines were not compatible with ranked-choice voting at the time. However, as we explored other voting modernization campaigns throughout our state, we discovered that **almost all Missouri election authorities—107 of 116—use election machines that ARE compatible with ranked-choice voting (RCV)**. The only counties that do NOT have RCV-compatible equipment are as follows: City of St. Louis; Henry; Moniteau; Phelps; Mississippi; St. Clair; Sullivan; and Worth.

Based on our estimates, we believe the cost of implementing these two petitions will range from $0 to approximately $2,265,000 (453 machines). The range depends on various appropriations bills to upgrade old machines across the remaining 9 counties—some or all of which may move forward regardless of these two initiative petitions.

Please do not hesitate to contact us if you have any questions.

For our Republic,

Benjamin D. Singer, Executive Director
Show Me Integrity | (314) 239-1308
Benjamin@ShowMeIntegrity.org

Alex Kaplan, Vice President of Policy and Campaigns, and David O'Brien, Policy Counsel, Represent Us provided the following information:

July 26, 2021

Nicole Galloway
State Auditor of Missouri
301 West High Street, Room 880
Jefferson City, MO 65102
moaudit@auditor.mo.gov

RE: PETITIONS 2022-049 AND 2022-050

Dear Auditor Galloway,

We are writing on behalf of RepresentUS regarding the ballot petitions officially named 2022-049 and 2022-50, which would bring Top 4 open primaries and instant runoff voting ("IRV," sometimes referred to as "ranked choice voting") to Missouri elections. RepresentUs is a national, nonpartisan organization focused on improving America's political system. We work with partners and volunteers across the political spectrum to pass democracy reforms at the state and local level. RepresentUS has helped grassroots campaigns to bring reforms like Top 4 and IRV across the country.

In our experience, the costs associated with implementing IRV are often far below what many initially expect and we expect this trend to hold in Missouri. Most counties will not need to replace their existing voting machines. According to a comprehensive analysis by the Ranked Choice Voting Resource Center, the vast majority of counties in Missouri (106) already have voting machines capable of conducting elections with IRV.[1] According to an evaluation of another petition involving IRV in Missouri, the estimated cost to replace a single voting machine would be $5,000.[2] Under this formula, the total cost of replacing voting machines unable to run IRV would be well under $3,000,000.[3]

For comparison, when Alaska Division of Elections's fiscal note for a ballot measure to implement the same policy that 2022-49 and 2022-50 it determined that 137 machines would have to be replaced at cost of $3,900 each, for a total cost of $534,300.[4] In the majority of counties that will not need to replace voting machines, costs will be more similar to implementation in Maine, which also did not need to upgrade its voting machines. When Maine

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[1] Ranked Choice Voting Resource Center, Missouri Ranked Choice Voting State Readiness Assessment 2021 Edition, p. 11 (attached in email).
[2] Fiscal Note for 2022-019.
[3] This is based on the estimate that there are approximately 453 that would need to be replaced in the seven counties (including St. Louis City) that do not currently have IRV-capable machines.
[4] Alaska Division of Elections, 19AKBE - Statement of Costs, https://www.elections.alaska.gov/petitions/19AKBE/19AKBEStatementOfCosts.pdf. The Division of Elections also estimates the total cost of implementation to be $803,593, including costs for things like voter education ($150,000) and language assistance ($57,416).

used IRV for the first time in 2018, its Secretary of State reported that the entire cost of statewide implementation that year was $441,804.[5]

Considering the experiences of other jurisdictions that have adopted IRV, we expect the cost of implementation in Missouri to be fairly modest. Thank you for your time and attention to this matter.

Sincerely,

Alex Kaplan
Vice President of Policy and Campaigns

David O'Brien
Policy Counsel

[5] Maine Office of the Secretary of State, Maine Costs for Ranked-choice Voting in 2018, https://www.maine.gov/sos/cec/elec/upcoming/pdf/rcv.costs.2018.pdf.

RANKED CHOICE VOTING RESOURCE CENTER

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MISSOURI

Ranked Choice Voting State Readiness Assessment

2021 Edition

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Ranked-Choice Voting and Election Administration in the State of Missouri

Introduction

Election administration is the day-to-day work required to run elections in the United States. These assessments provide a high-level introduction to election administration practices in a given state and briefly analyze the likely ease of adapting that election administration infrastructure to ranked-choice voting (RCV). The people tasked with administering elections are known as election administrators. In most states, the state-level election administrator is the Secretary of State, along with City/County Clerks or City/County Boards of Elections administering elections at the local level.

These assessments do not provide an analysis of the step-by-step procedures of election administration in a given state. However, such fine-grained details are frequently important to consider and to execute properly in any election, ranked-choice or not. These assessments are kept at a high level due to the large amount of research required even to produce a high-level analysis of election administration practices in a given state. Many of the day-to-day procedures and requirements for actually running an RCV election in a jurisdiction are not covered in these assessments, but those details remain important. If you are interested in a more detailed assessment of your state, please reach out to the Ranked Choice Voting Resource Center (info@rcvresources.org or 1-833-VOTE-RCV), and we can work with you on producing such an assessment.

These assessments provide scores grading the readiness of each state to run RCV elections statewide. Scores are based on what voting systems each state uses, and states are labeled as **RCV Ready**, **RCV Capable**, **Prepping for RCV**, or **Updates Needed for RCV**. However, we know from experience that election administrators are adept at implementing change when it is necessary to do so. It is not our intention to suggest or prove that any state or local jurisdiction is incapable of implementing RCV. While some states may have more work to do when implementing RCV than others, no state is fundamentally incapable of implementing ranked-choice voting due to their current election administration infrastructure.

Election Administration

In each state, election administration is a locally created process. Depending on the state, administering elections can be highly decentralized, with City or County Clerks acting mostly independent of the state and of one another (as in Wisconsin). Alternatively, it can be highly centralized, with City and County Clerks working in close coordination with or at the direction of the state (as in Maryland). Some states have specific functions that are highly centralized at the state level (like ballot design) while leaving other functions entirely up to the locality (like certifying candidates for election).

Election administration tasks include:

- Registering voters
- Certifying candidates and issues for the ballot
- Designing ballots
- Certifying voting systems for use in elections
- Programming voting systems for upcoming elections
- Administering campaign finance reporting systems
- Sending out absentee ballots
- Testing voting systems before elections (known as Logic & Accuracy testing)
- Training poll workers
- Finding polling places
- Processing and counting ballots
- Canvassing and certifying election results
- Conducting post-election audits
- Conducting recounts
- And more!

Depending on the state, election administrators may have other hats to wear as well. In addition to running elections, many also register deeds, issue marriage certificates, collect documents, and coordinate for City Council meetings, among other tasks. A sample list of these tasks is included in this document.

The federal government is minimally involved in election administration. The Election Assistance Commission (EAC) is the federal agency tasked with overseeing election administration in the United States. They serve as a clearinghouse for election administration documents and best practices from the states, and they set voluntary voting systems standards under their Voluntary Voting System Guidelines (VVSG). Some states require their voting systems to meet EAC certification standards, but most do not. The EAC is intentionally weak and purposefully designed to have little to no power over the work of state and local administrators.

In Missouri, election administration responsibilities are divided between the Secretary of State, who sets election administration standards, certifies voting systems for use in the state, and runs the statewide voter registration database, and County Clerks, County Boards, or City Boards of Elections, who are tasked with the day-to-day administration of elections. County Clerks and Boards are responsible for State, County, and Federal election administration within that county, and City Boards are tasked with managing City, State and Federal elections within that City. Local administration tasks include registering voters, designing ballots, testing and programming voting equipment, and finding polling places. City and County Boards are bipartisan and their members are appointed by the Governor and confirmed by the State Senate. Mo. Rev. Stat. § 115.027.

Missouri does not currently have any RCV jurisdictions, but it should be noted that St. Louis City has approval voting for mayor and part of St. Louis County (Ferguson School Board) has cumulative voting for School Board elections.

The significant components of election administration impacted by ranked-choice voting are ballot design, ballot counting and centralization practices, and voting systems. This analysis considers each of those election administration domains in Missouri.

Ballot Design

Designing and laying out ballots is a crucial yet challenging part of running a successful election. Ballot design must consider the type of each contest, the total number of contests, and the number of candidates in each contest while simultaneously providing voters with clear and concise instructions in any given election and complying with additional state laws regulating ballot design.

Several months before an election, election administrators at all levels work to determine the contests that should appear on the ballot and prepare for the candidate filing or nomination period. After the candidate filing or nomination period closes, election administrators collect lists of all contests and candidates qualified to appear on a ballot. Administrators then either create a ballot using ballot design software from their voting system vendors or software developed in-house. After creating these draft ballots, officials proof ballots for accuracy and adherence to any federal, state, or local design requirements. Once the review process is complete, election administrators submit ballot designs to printing companies who then provide election offices with printed ballots for their elections.[1]

The contests on a given voter's ballot can vary within states, counties, and cities, depending on the offices up for election in that voter's assigned precinct. Due to this variation, election administrators design many different ballots for any given election day. To eliminate confusion, officials assign each ballot a style. This style may be a simple letter or number designation. For larger, more complex elections, ballot style codes can require a more intricate naming process.

Ranked-choice voting adds to this already complex task. RCV contests require both more space on a ballot than non-RCV contests and additional instructions for voters to read. This section describes the ballot design process and analyzes election law in Missouri to understand whether current ballot laws pose a barrier to RCV implementation. The analysis covers the average number of contests that appear on Missouri ballots and whether voting systems in Missouri are already capable of capturing RCV ballots. The section also provides links to resources for designing RCV ballots.

RCV Ballots in Missouri

Ranked-choice voting ballots are impacted when the law requires a certain number of columns in contests, when laws regulate how many ovals can appear in any given contest, and when voting instructions are specified in law. Ballot design is fundamental to voters being able to cast their vote as intended. A well-designed ballot means a voter should understand what they are voting on, how to vote, and how to cast the vote they want.

[1] Ballot design concludes well in advance of election day in order to provide time for printing companies to print out large orders of ballots, sending ballots to voters who are in the military or living overseas, sending ballots to voters who request them by mail, and getting ballots back in time for Logic and Accuracy testing of voting systems (when programmed election equipment is tested to confirm that it will behave as it is programmed to on election day).

In Missouri, rules for ballot design for all elections are set by state statute. Mo. Rev. Stat. §§ 115.237, 115.239, 115.395. These laws relate to ballot layout, including organization of party information and race information, race order on ballot, and other ballot elements. The ballot design laws and restraints from voting systems do not prescribe ballot instructions, how to lay out columns, or oval placement, and so are not in conflict with the design of RCV ballots. In other words, no legal barriers to designing effective RCV ballots exist in Missouri. Practical concerns, such as how to fit RCV contests on the ballot, may arise if RCV is adopted in the state; a detailed analysis of that question is outside the scope of this assessment but the RCVRC can produce example RCV ballots conforming to state laws if requested.

Missouri requires write-in spaces for elections that require write-ins. Mo. Rev. Stat. § 115.237(4). RCV ballots with write-in spaces are included in the appendix.

Contests on Missouri Ballots

Knowing how many contests tend to appear on ballots in Missouri helps when considering what races or how many races should be converted to RCV because RCV takes up more space on a ballot than non-ranked-choice-voting contests. The number of contests on ballots in Missouri varies by year. Federal, state, and county-level offices are all elected in November of even years, while city offices are isselected in April of even or odd years. Mo. Const. art. III, § 11, art. IV § 17 (state office election schedule); Mo. Rev. Stat. §§ 49.020, 51.020, 52.010, 53.010, 54.010, 55.045 (county office election dates); Mo. Rev. Stat. § 115.121(3) (municipal election date). Circuit and associate circuit judges are also elected in Missouri on six and four year terms, respectively, while appeals judges and supreme court justices are appointed then subject to retention elections on 12 year terms. Mo. Const. art. V, § 16 (circuit judge elections); sec. 25(c)(1) (retention elections).

Presidential elections have the longest ballots in Missouri, with a minimum of 15 candidate contests. This sample ballot, from the General Election held in Cass County in 2016, contains 17 candidate contests and 11 ballot questions (though not all ballot questions would appear on all ballots in Cass County).[2]

Due to the large number of contests on ballots in Missouri, administrators may need to limit the number of rankings available to a voter on the ballot due to space limitations of physical ballots. The Center for Civic Design suggests ballots not have more than 5-8 rankings when first introducing RCV for maximum voter comfort with the ballot. Recommendations for Introducing ranked-choice voting ballots, Center for Civic Design, pg. 4. The way voters mark the ballot in RCV contests impacts how many rankings voters get. The two primary forms of ranked-choice ballots in use in the United States are column-style and grid-style ballots. Examples of those

[2] Those 17 candidate contests break down into three federal-level contests, seven state-level contests, five county-level contests, one judicial-branch contest, and one retention contest. The state-level and county-level contests are on four-year terms and so will always be included on a presidential election ballot. Federal-level contests will vary between two and three contests in presidential elections, based on whether a Senate seat is up for election. Judicial-branch and retention contests are on regular (4, 6, or 12 year) schedules, but those will vary by county.

ballots are included in the appendix. Voting systems in 106 counties and one independent city currently used in Missouri can handle either or both of these forms of RCV ballot. Voting systems in eight counties and one independent city cannot, at present, capture then export data from either form of RCV ballot. This brief later discusses in general what the voting systems offer in terms of RCV ballots for use in Missouri.

Ballot Counting and Centralization

There are two major stages to the results reporting process in any election. Unofficial results are incomplete results, a category that includes election night reporting. Official results are the final results of an election. Starting on election night, election officials announce unofficial results. This period of unofficial results reporting is also known as election night reporting. Election night results tend not to include absentee ballots, provisional ballots, or ballots that could not be read by a voting machine in the polling place.[3] Jurisdictions provide updates to unofficial results throughout their post-election canvass when all remaining ballots cast in an election are tallied and counted, and other non-vote-counting procedures are completed.

Official results are the final, certified results of an election. These results include votes from all ballots cast in an election, provide the official record of total votes for each candidate in each contest, and are used as the record to certify the official winner(s) in every contest. The body responsible for certifying state election results varies depending on the state and the level of government being elected. Cities tend to certify results for municipal elections, counties tend to certify results for county elections, and states tend to certify results for state and federal elections.

Whether official or unofficial, reporting results for all elections requires some level of centralization of results. Before centralization, however, ballots must be counted. Counting those ballots requires election workers at precincts, vote centers, mail ballot counting centers, or anywhere else votes are counted to scan in or hand count ballots. Vote totals for every contest on the ballot are printed out by voting equipment or recorded on tally sheets and then centralized at the appropriate elections office.

Processes for centralizing election results vary across states. On election night, poll workers typically print out or copy down results totals for each contest from voting systems in precincts. Poll workers then call in, hand-deliver, or enter those numbers on secure web portals to report totals to city or county election administrators. For state and federal elections, those city or county administrators then report election night results up to the state level, using that same possible variety of reporting procedures. Official results are a combination of those election

[3] Like all elections processes, this varies across and within states. Some states begin scanning absentee ballots on Election Day after polls open while other states wait until polls close to begin scanning ballots. Some states are permitted to begin processing absentee ballots (steps such as checking signatures and other verification measures on absentee envelopes) before election day but may not scan those ballots until Election Day, while other states must wait until Election Day to begin all processing of absentee ballots.

night totals and any other vote numbers derived while processing absentee, provisional, and other ballots scanned after election day.

Unofficial results for ranked-choice voting elections may take the form of first-choice totals for candidates - that is, the number of ballots where each candidate was ranked first. First-choice totals are simple to produce: results tapes from voting equipment can print out first-choice totals in RCV elections just as they print out vote totals in non-RCV elections. As with non-RCV elections, those results can be reported back to the appropriate elections office, which can combine totals and publish just first-choice totals. However, first-choice totals aren't enough if no one candidate has a majority in a single-winner RCV contest or there remain seats to be filled in a proportional RCV contest. This is where RCV differs from other voting methods and where the RCV results reporting process branches off from other types of elections.

Determining the winners in a ranked-choice voting election requires producing a round-by-round count to determine the winner or winners in an election. Running this round-by-round count means we need to know the candidate ranking order on each ballot to know 1) who has the fewest votes in the election and 2) who is ranked next on each of those ballots. We also need to know how many ballots were cast in total to determine how many votes candidates must have to win. This means two things for producing ranked-choice voting results: all ballots or ballot data must be available, and those ballots or ballot data must be centralized. Current results centralization practices tend to rely just on results totals printed out from voting systems themselves, but those printouts do not provide sufficient information to run the round-by-round count. Ranked-choice voting requires that election officials centralize either the ballot data known as cast vote records (CVRs) or the actual ballots to run the round-by-round count. After ballots and ballot data are centralized, that data can be run through ranked-choice voting counting software to produce round-by-round results and determine which candidates emerge with the most votes.

This part of the state assessment is broken into two sections: election night results and official results. The assessment analyzes Missouri's current practices for each and considers how they could be adapted to ranked-choice voting reporting. Each section is discussed in further detail below.

Election Night Results

Ranked-choice voting requires that election officials centralize ballot data or the actual ballots to run the round-by-round count. The speed with which round-by-round results can be reported on election night for the federal- or state-level offices depends on how quickly ballots and ballot data can be transmitted to the appropriate state and local election officials. Election administrators in the United States use a variety of transfer mechanisms for election night results, such as uploading election data to a secure server through a state intranet connection, physically transporting flash drives with precinct election data to local officials, or filling out paper results report sheets at the close of polls which then get centralized to local officials. These transfer mechanisms can all be adapted to ranked-choice voting elections.

At the close of polls, election workers print out vote total tapes from voting machines in their precincts and report those vote totals on tally sheets. Mo. Rev. Stat. §§ 115.449, 115.453, 115.456, 115.467, 115.471, 115.473 (laws defining how votes are to be counted, duties of election officials at close of polls, and tally sheet format.). Those tally sheets, along with copies of the printouts from voting systems, are centralized to a location designated by the county election authority. Mo. Rev. Stat. § 115.475. While Missouri law does not appear to regulate this directly, those results are published on election night as they come in. See election night results. Missouri regulation makes brief mention of digital memory devices from voting systems, but they do not appear to be used for election results reporting. In order to run RCV elections, Missouri needs procedures for how to handle, centralize, and extract data from digital memory devices used in RCV elections, as that cast vote record data makes it possible to quickly run the round-by-round count. 15 CSR 30-10.150 & 30-10.160.

Election night results for RCV contests in Missouri could also be limited to the first round of election results, as is done in Maine RCV contests. First choice totals from machines and any counting boards could be reported out and combined to determine first-round totals, which may indicate winners of elections. Before its RCV elections, Maine communicates to voters, the press, and candidates that election night results include only the first round and that round-by-round results are produced about a week after the election. A similar, transparent process could be adopted in Missouri to ensure all stakeholders know when election results are released. In short, Missouri election law and procedures would require updates to produce round-by-round RCV results on election night.

Official Results

Determining the official results of a ranked-choice voting contest requires the centralization of cast vote records from the entire contest, whether in a district in a city election or from all counties in a statewide election. Cast vote records (CVRs) – digital records of all rankings on each ballot cast on a voting machine – can be centralized during the election night reporting process or when producing official results. That centralization can take many forms. In Ireland, which uses RCV for national and local elections, sets of RCV ballots are manually counted in counting centers distributed across the country. Those totals are called into a central office, which determines results. Other jurisdictions, like Maine, centralize cast vote records and ballots not yet scanned at a single counting location that finalizes all records and produces the round-by-round count.

Missouri law provides for various post-election day ballot counting procedures. Absentee ballots are counted on election day, while election officials process provisional ballots and write-in votes in a central counting location after election day. Mo. Rev. Stat. §§ 115.299, 115.430, 115.468 (laws describing how to count absentee, provisional, and write-in votes, respectively). Results must be certified within 14 days of the election, and results for state-wide and multi-county elections must be sent to the Secretary of State within that same 14 day time frame. Mo. Rev. Stat. §§ 115.507; 115.511. Results for those contests rely on final results reports produced by counties, and current procedures make no mention of any information beyond bare ballot and vote totals. As with election night reporting procedures, Missouri needs procedures for how

to handle, centralize, and extract data from digital memory devices used in RCV elections to quickly produce official round-by-round RCV results.

It remains to be seen how election officials would produce RCV results in Missouri. If the state wanted to use a centralized count, Missouri could choose to follow the Maine model of centralizing all ballots or cast vote records to a single location. The state could rely on election administrators to centralize flash drives by driving them to a central location or by developing a secure process for submitting data digitally. Missouri could also use a bonded courier service, as is done in Maine. A bonded courier collects the ballots from precincts or counties across the state, and officials would then centralize those ballots/cast vote records in a single location in Jefferson City, the state capital. Once all ballots and CVRs are centralized, they can be combined and run through counting software to determine winners and produce the round-by-round count. This procedure would increase the State's involvement in results reporting, a major departure from most state election administration practice.

In an Ireland-style decentralized count, counting centers count up batches of votes. First-choice totals are then reported to a central office from those counting centers; that office adds up vote totals and determines which candidates have the fewest votes or which candidates crossed the threshold of the election. That information is then communicated back to the counting centers, where ballots for the eliminated candidate are transferred, and new totals are reported to the central office. These counting, calling, and re-sorting steps continue until the winner or winner(s) are determined.

Missouri could use a similar decentralized process by changing the manual process to a software-based process and counting ballots by computer. The necessary steps are substantially similar: cast vote records would be centralized from precincts to a counting center in each county and uploaded to a computer, instead of following Ireland's practice of counting each ballot by hand. Then total results from the first round would be called into a central counting office. The central office would determine winners or losers and communicate that back to the counties. County election officials would then instruct the software on which candidate to eliminate or elect and similarly continue the rounds of counting. This procedure would keep more responsibility for election results with local administrators, as opposed to giving more responsibility to the State in a fully centralized count. The state could also choose a middle ground between a single centralized location and locations in every county. For example, decentralized counting centers could be created in each congressional district or population centers in different regions of the state.

Once cast vote records are centralized, election officials would need to run the round-by-round count. Missouri has a patchwork of voting systems from many different voting system vendors. Those vendors produce cast vote records in proprietary formats that do not work in other vendors' systems. Therefore, Missouri would need a tabulation tool that can take in cast vote records from multiple different voting system vendors at once to run their round-by-round count. The only piece of software currently able to handle cast vote records from multiple different

voting systems is the Ranked Choice Voting Resource Center's RCTab. The tabulator is open source and available for free from the Resource Center.[4]

Auditing Info

Post-election audits are used to determine whether the voting machines performed as they should, or if they malfunctioned (due to programming errors or malicious interference of a third party attempting to alter the results of an election). They are typically conducted after all ballots in the election have been counted, but before an election is certified, in case the election must be recounted or rerun due to the results of the audit.

Missouri conducts conventional (also known as traditional) post-election audits. These audits take a fixed percentage of voting districts or machines used in a given election, then compare the paper record of ballots from the machines used in that district to the results produced by that voting machine. The percentage of voting districts audited in an election generally ranges from 2% to 5%, though it goes as low as 1% and as high as 10%, depending on the state where the audit is being conducted. Conventional audits count the same percentage of ballots regardless of the margin of victory in the election being audited. Missouri audits a random, 5% sample of precincts in the state. Mo. Code Regs tit. 15, § 30-10.090; § 30-10.110.

Single- and multi-winner RCV races[5] in the Bay Area and Minneapolis are regularly audited using conventional audit procedures. These audits examine the ballots themselves cast in an RCV contest. Note that designing a conventional election audit should be done in consultation with a professional statistician, regardless of the voting method to be audited. Audits of RCV contests should also include an audit of the counting software used. The RCVRC's RCTab could be used to audit RCV software in Missouri, so long as the software is not used to provide results. An auditor could run each contest's CVR through the RCTab software to check the round-by-round count results produced by the round-by-round counting software in Missouri.

Voting Machines in Missouri

Voting systems are the combination of hardware (scanners/DREs/ballot marking devices) and software used to conduct an election. Election administrators use voting systems to design ballots, set up the rules of an election, cast ballots, capture ballots, count election results, and produce results. Voting systems are a fundamental component of running elections in the United States. The ability of those systems to run an RCV election depends on the age of the equipment in use, the software installed on the voting equipment, and the vendor providing the equipment.

Missouri has 114 counties and two independent cities. Of those, 106 counties and one independent city have voting systems capable of conducting an RCV election, or what we call

[4] The tabulator is compatible with Clear Ballot, Dominion, ES&S, Hart, and Unisyn data.
[5] More information on how these two forms of election differ is available on our website.

RCV Capable. Six counties and one independent city use equipment that is not ready for RCV. A single county uses equipment that would require a workaround for RCV, and the remaining county uses hand count procedures to tabulate election results. All data used here was obtained from Verified Voting's Verifier. The data on this site is updated every two years. The analysis in this section uses the 2020 verifier data.

Voting system assessment	Prepping for RCV	92% of jurisdictions have RCV capable equipment

The state of Missouri requires certification of voting systems before use. The Secretary of State certifies equipment for use in elections after that equipment is tested by a federally certified lab. Mo. Rev. Stat. § 115-225; Mo. Regs. tit. 15, § 30-10. Missouri's requirement that voting systems be tested by a federally certified lab is the third-highest level of scrutiny to which voting equipment is subjected. It can take a few months to test and certify a voting system under this requirement.[6] It is unclear if the Secretary of State's office has specific requirements it is looking for if a system claims RCV capability.

Four major vendors of election equipment in the United States have varying levels of compatibility with ranked-choice voting: Dominion Voting Systems, Election Systems and Software (ES&S), Hart InterCivic, and Unisyn Voting Systems. These vendors include RCV compatibility in their systems through general software updates and through RCV-specific counting software add-ons. While these assessments categorize systems by their RCV compatibility, access to any RCV features may require software updates. Specific details for voting system versions were not researched for this document. This information and how it affects RCV implementation can be researched and included in a more detailed assessment upon request. More detail on how we categorized states and voting equipment is available in the "How We Score States" document.

Election administrators purchase voting systems infrequently, and those purchases typically have a significant price tag. It can be possible to have RCV elections counted round-by-round by a voting system vendor's equipment, which is the most efficient solution. Other times, their systems cannot run that sort of count internally, but the machines can capture RCV ballots. In that case, the data from those ballots need to be exported and run through third-party software capable of running the round-by-round count. The following analysis discusses options for running the RCV count in Missouri using the state's current voting systems.

[6] Once a vendor has had a system tested by a lab, it receives a report outlining the results of that test. That report can then be submitted to the EAC if the vendor is looking for EAC certification (the highest level of testing/certification for voting systems in the US) or a vendor can submit that report to a given State's certification authority (typically through the Secretary of State's office). The certification authority then reviews the testing report and may order additional in-state testing. Following the review and any additional testing, the authority may certify or decline to certify that voting system for use in that state. If any changes are made to a system after testing, it will need to be retested and resubmitted for certification.

Jurisdictions with RCV Capable voting systems

Seven counties and one independent city have RCV-ready **ES&S** equipment. Those jurisdictions use DS200, DS450, and ExpressVote equipment. Single-winner RCV ballots can be marked, scanned, and captured with that equipment. A separate tabulation module is available from ES&S to produce round-by-round RCV results. These machines can also capture data for ballots cast in a multi-winner RCV election but need to have that data run through third-party counting software for multi-winner ranked-choice voting results. Software upgrades are needed to gain native vendor single-winner RCV capability, but data could be exported from the equipment as-is and run through third-party counting software for RCV results for both single- and multi-winner RCV. The RCVRC's RCTab can run the round-by-round count on data from this ES&S hardware. Both grid-style and column-style RCV ballots can be designed within this system. The number of rankings vary depending upon the ballot layout (portrait or landscape) and the number of contests on the page. A list of these jurisdictions is available in the appendix.

Twenty-five counties use **Dominion Voting's** Democracy Suite software with ImageCast Precinct, Precinct with BMD, and/or X equipment. Single-winner and multi-winner RCV ballots can be processed and counted through ImageCast machines. Dominion provides RCV counting software and services at a price, and pricing or activation would need to be determined in discussions with the vendor. Round-by-round results are available through Democracy Suite software version 5.2 or higher, provided a jurisdiction has Dominion's RCV software. Dominion equipment limits ballots to a total of 10 rankings on a grid-style ballot. The RCVRC's RCTab can run the round-by-round count on data from this Dominion hardware. A list of these counties is available in the appendix.

One county has RCV-ready **Hart** equipment. That county uses Verity Central, Scan, and Touch Writer equipment. Single-winner and multi-winner RCV ballots can be captured in this system, provided a jurisdiction has Hart's RCV options enabled in their system. While these systems can capture RCV data, Hart systems do not have the ability to tabulate the RCV round-by-round count. Hart ballot data will need to be exported and run through a separate tabulator to determine the winners in an RCV race. The RCVRC's RCTab software can tabulate round-by-round results in RCV elections run on this Hart equipment. Depending on the software version in use, users should be aware that ballots are limited to five or six rankings in a grid-style ballot on these systems. In order to use this Hart equipment to run an RCV election from end to end, additional testing and software will be required. The county is listed in the appendix.

Seventy-three counties have RCV-ready **Unisyn voting systems** equipment. Those counties use OpenElect OVCS, OVI, OVO and Freedom Vote Tablet equipment. Single-winner and multi-winner RCV ballots can be scanned and captured with that equipment. Software upgrades may be needed to gain access to all RCV functionality available from Unisyn. Unisyn's RCV capability is EAC certified. Ballots are limited to three rankings in a grid style. The RCVRC's RCTab can run the round-by-round count on data from this Unisyn hardware. A list of these counties is available in the appendix.

Jurisdictions with equipment requiring RCV workarounds

One county uses both legacy and newer **ES&S** equipment. The older hardware used in this county, M650, cannot be used for RCV, but the newer DS200s used in this county can. The M650 is legacy hardware that cannot export ballot-level data from elections, which means that the necessary information required to run a round-by-round count of RCV cannot be retrieved. DS200s are used for voting in polling places, while the M650 is used to count absentee ballots. Absentee ballots could be scanned through DS200s instead to avoid the RCV limitations of the M650. The M650 could also be replaced with a newer high-speed scanner, any of which are RCV capable. This county is listed in the appendix.

Jurisdictions without RCV Capable equipment

One county and one independent city have **Premier/Diebold** AccuVote OS and AccuVote TSX machines, which are considered legacy voting equipment. These can read RCV ballots but do not currently export useful ballot level data. Their data could be painstakingly converted to usable data, but that process would be very time-consuming. Work is underway now to make using this data less painstaking. However, replacing these machines is likely the most fruitful avenue, given their age and the relative difficulty of conducting RCV elections with them.

Another two counties have **Sequoia** Optech Insight and AVC Edge machines, which are legacy voting equipment. These can read RCV ballots but do not currently export useful ballot level data. Their data could be painstakingly converted to usable data, but that process would be very time-consuming. Work is underway now to make using this data less painstaking. However, replacing these machines is likely the most fruitful avenue, given their age and the relative difficulty of conducting RCV elections with them. In the meantime, these jurisdictions could potentially borrow equipment from a nearby county with RCV-capable equipment. A list of these jurisdictions is available in the appendix.

Three counties use legacy **ES&S** equipment, the M650. This equipment can scan RCV ballots but does not export a cast-vote record, making software-assisted counting of RCV elections impossible if using this hardware. Subdivisions using this equipment either need to hand count their RCV elections (possible in smaller elections) or update their equipment. A list of these counties is available in the appendix.

Jurisdictions conducting Hand Counts

In Missouri, one county counts elections by hand. Hand counting RCV elections can be time-consuming and depends on the length of the ballot and the number of votes cast, the latter of which is unknown until after the election. One option for handling hand count jurisdictions is the approach taken by Maine, which centralizes all RCV ballots cast in hand count cities and towns to the capital, Augusta, where election administrators scan in those ballots. This process is explained in more detail in the Official Results section above. This county is noted in the appendix.

Conclusion

While 92% of Missouri's jurisdictions have modern, RCV-capable voting equipment, another 8% or so of the state still uses non-RCV capable equipment that would require replacement or a workaround before implementation. Because 92% of Missouri jurisdictions have RCV capable equipment, they fall in our **Prepping for RCV** category, meaning their voting system infrastructure is not yet 100% ready for RCV. Still, substantial progress towards that goal has been made.

If you are interested in a more detailed assessment of your state, please reach out to the Ranked Choice Voting Resource Center (info@rcvresources.org or 1-833-VOTE-RCV), and we can work with you on producing such an assessment.

Appendix

Jurisdictions with RCV Capable voting systems

Dominion ImageCast X/ ImageCast Precinct
Adair
Butler
Callaway
Carroll
Carter
Crawford
Gasconade
Jasper
Lafayette
Livingston
Maries
McDonald
Mercer
Montgomery
Newton
Nodaway
Osage
Pemiscot
Pike
Polk
Saline
Warren
Wright

ImageCast Precinct w/ BMD
Grundy
Harrison

ES&S DS200/ExpressVote
Cooper
Greene
Laclede
Lincoln
Vernon

DS200/DS450/ ExpressVote
Boone
Johnson
Kansas City

Hart Verity Central/Scan/ Touch Writer
St. Louis County

Unisyn OpenElect OVI/ OpenElect OVO
Andrew
Atchison
Audrain
Barton
Bates
Benton
Bollinger
Buchanan
Caldwell
Camden
Cape Girardeau
Chariton
Christian
Clark
Clinton
Cole
Dade
Dallas
Daviess
DeKalb
Dent
Douglas
Dunklin
Franklin
Gentry
Hickory
Holt
Howard
Howell
Iron
Knox
Lawrence
Lewis
Linn
Madison
Marion
Miller
Monroe
Morgan
New Madrid
Oregon
Ozark
Perry
Platte
Pulaski
Putnam
Ralls
Randolph
Ray
Reynolds
Ripley
Schuyler
Scotland
Scott
Shannon
Shelby
St. Charles
St. Francois
St. Genevieve
Stoddard
Stone
Taney
Texas
Washington
Wayne
Webster

OpenElect OVCS/ OpenElect OVI/ OpenElect OVO
Jackson

OpenElect OVO/ OpenElect Freedom Vote Tablet (FVT)
Barry
Cass
Cedar
Pettis

OpenElect OVI/ OpenElect OVO/ OpenElect FVT
Clay

OpenElect OVCS/
OpenElect OVO/
OpenElect FVT
Jefferson

Jurisdictions with voting systems requiring RCV workarounds

ES&S
DS200/M650/AutoMARK
Macon

Jurisdictions without RCV Capable voting equipment

Premier/Diebold
AccuVote OS/
AccuVote TSX
Henry
St. Louis City
Sequoia
Optech Insight/
AVC Edge
Moniteau
Phelps

ES&S
M650/AutoMARK
Mississippi
St. Clair
Sullivan

Jurisdictions conducting Hand Counts

Populex Slate
Worth

Best Practices Grid-Style Ballot

More usability resources available on this page: https://www.rcvresources.org/reports

Official Ballot
Franklin County, California **General Election** **Tuesday, November 6, 2012** **2**/2

Instructions for Ranked Choice Voting

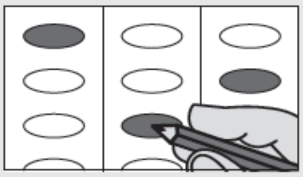
Making selections

Rank candidates in the order of your choice.

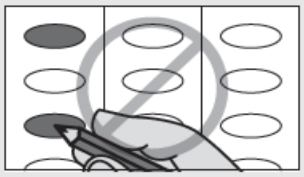
You may rank as many or as few candidates as you wish.

Fill in the oval...

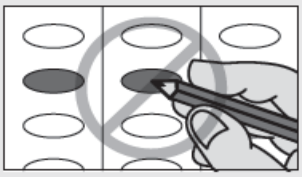
- In the 1st column for your first 1st choice.
- In the 2nd column for your 2nd choice.
- In the 3rd column for your 3rd choice, and so on



Fill in the oval completely.



No more than 1 oval in a column.



No more than 1 oval for a candidate.

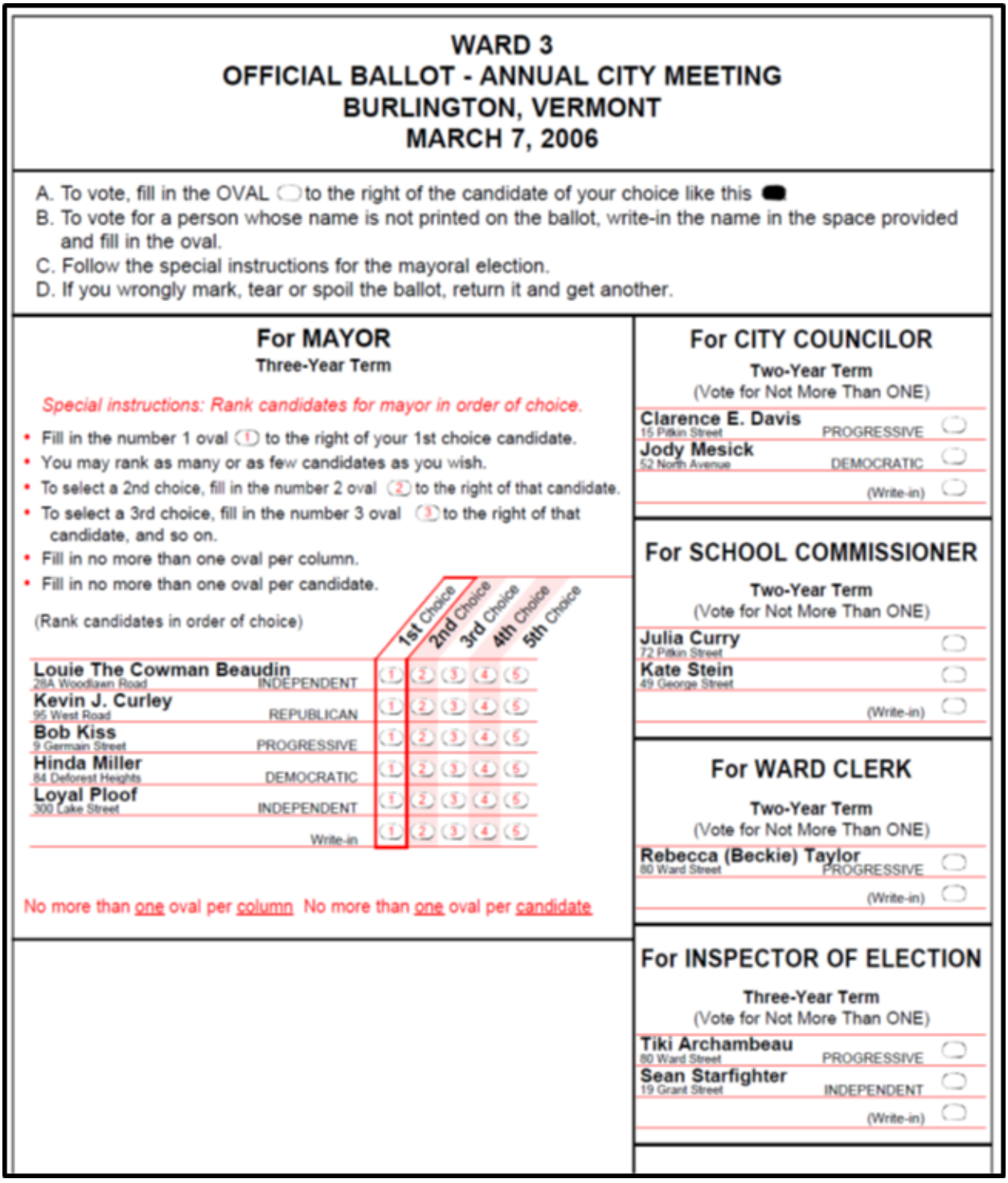
Mayor

Rank up to 10 candidates.

Mark no more than 1 oval in each column.

	First choice 1st	Second choice 2nd	Third choice 3rd	Fourth choice 4th	Fifth choice 5th	Sixth choice 6th	Seventh choice 7th	Eighth choice 8th	Ninth choice 9th	Tenth choice 10th
Frederick Sharp Orange Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Luis Garcia Orange Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Charles Layne Yellow Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Andrew Kowalski Yellow Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Alex Wallace Purple Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Eric Savoy Purple Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Barbara Williams Tan Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Lillian Cohen Lime Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Ann Windsock Independent	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Markos Miller Silver Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭
Elizabeth Harp Silver Party	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭	⬭

AccuVote Grid Ballot with Write-Ins
Burlington, VT 2006



WARD 3
OFFICIAL BALLOT - ANNUAL CITY MEETING
BURLINGTON, VERMONT
MARCH 7, 2006

A. To vote, fill in the OVAL ◯ to the right of the candidate of your choice like this ●
B. To vote for a person whose name is not printed on the ballot, write-in the name in the space provided and fill in the oval.
C. Follow the special instructions for the mayoral election.
D. If you wrongly mark, tear or spoil the ballot, return it and get another.

For MAYOR
Three-Year Term

Special instructions: Rank candidates for mayor in order of choice.

- Fill in the number 1 oval (1) to the right of your 1st choice candidate.
- You may rank as many or as few candidates as you wish.
- To select a 2nd choice, fill in the number 2 oval (2) to the right of that candidate.
- To select a 3rd choice, fill in the number 3 oval (3) to the right of that candidate, and so on.
- Fill in no more than one oval per column.
- Fill in no more than one oval per candidate.

(Rank candidates in order of choice)

		1st Choice	2nd Choice	3rd Choice	4th Choice	5th Choice
Louie The Cowman Beaudin, 28A Woodlawn Road	INDEPENDENT	1	2	3	4	5
Kevin J. Curley, 95 West Road	REPUBLICAN	1	2	3	4	5
Bob Kiss, 9 German Street	PROGRESSIVE	1	2	3	4	5
Hinda Miller, 84 Deforest Heights	DEMOCRATIC	1	2	3	4	5
Loyal Ploof, 300 Lake Street	INDEPENDENT	1	2	3	4	5
Write-in		1	2	3	4	5

No more than one oval per column No more than one oval per candidate

For CITY COUNCILOR
Two-Year Term
(Vote for Not More Than ONE)

Clarence E. Davis, 15 Pitkin Street	PROGRESSIVE	◯
Jody Mesick, 52 North Avenue	DEMOCRATIC	◯
	(Write-in)	◯

For SCHOOL COMMISSIONER
Two-Year Term
(Vote for Not More Than ONE)

Julia Curry, 72 Pitkin Street		◯
Kate Stein, 49 George Street		◯
	(Write-in)	◯

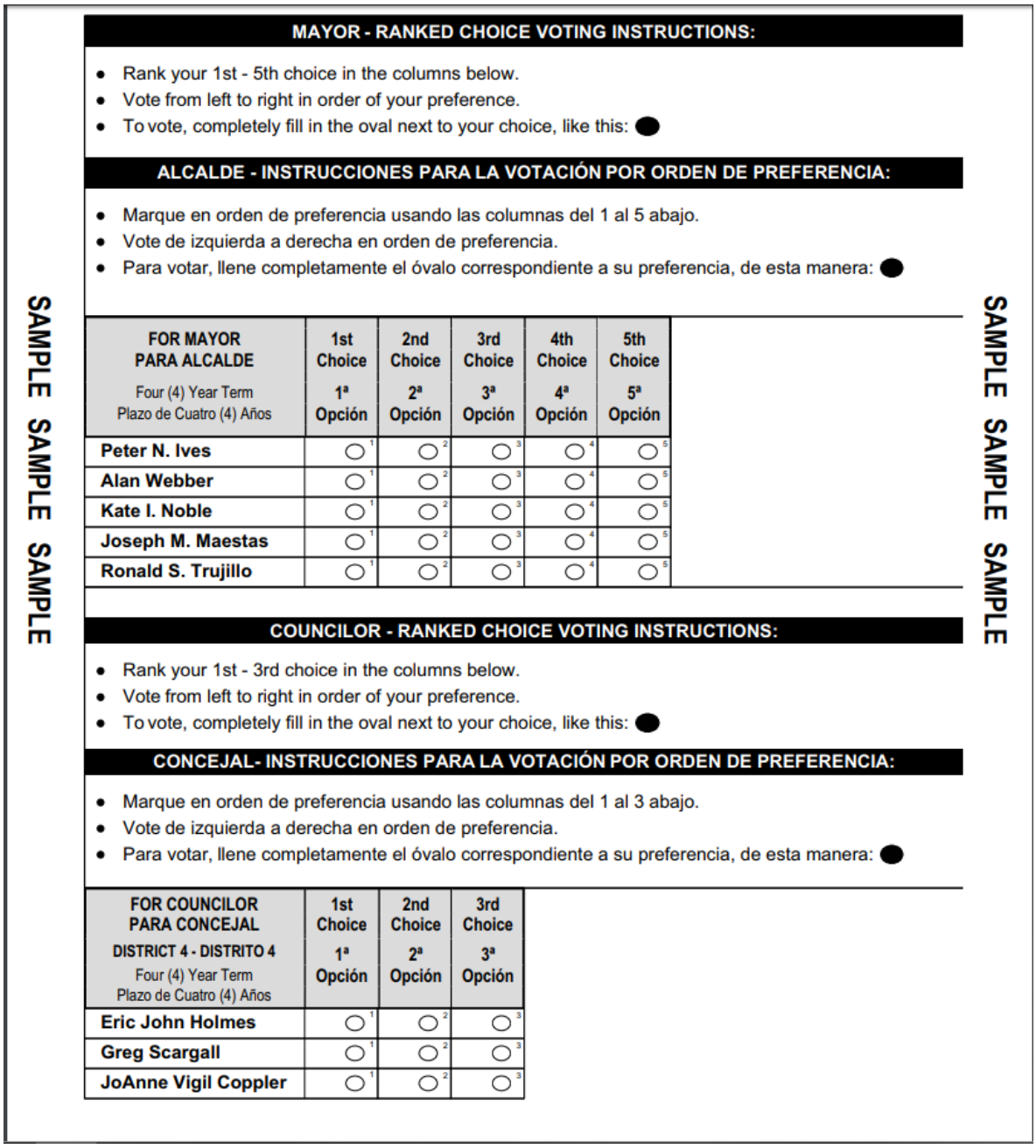
For WARD CLERK
Two-Year Term
(Vote for Not More Than ONE)

Rebecca (Beckie) Taylor, 80 Ward Street	PROGRESSIVE	◯
	(Write-in)	◯

For INSPECTOR OF ELECTION
Three-Year Term
(Vote for Not More Than ONE)

Tiki Archambeau, 80 Ward Street	PROGRESSIVE	◯
Sean Starfighter, 19 Grant Street	INDEPENDENT	◯
	(Write-in)	◯

Dominion Grid Ballot



SAMPLE SAMPLE SAMPLE

MAYOR - RANKED CHOICE VOTING INSTRUCTIONS:

- Rank your 1st - 5th choice in the columns below.
- Vote from left to right in order of your preference.
- To vote, completely fill in the oval next to your choice, like this: ●

ALCALDE - INSTRUCCIONES PARA LA VOTACIÓN POR ORDEN DE PREFERENCIA:

- Marque en orden de preferencia usando las columnas del 1 al 5 abajo.
- Vote de izquierda a derecha en orden de preferencia.
- Para votar, llene completamente el óvalo correspondiente a su preferencia, de esta manera: ●

FOR MAYOR PARA ALCALDE Four (4) Year Term Plazo de Cuatro (4) Años	1st Choice 1ª Opción	2nd Choice 2ª Opción	3rd Choice 3ª Opción	4th Choice 4ª Opción	5th Choice 5ª Opción
Peter N. Ives	○ 1	○ 2	○ 3	○ 4	○ 5
Alan Webber	○ 1	○ 2	○ 3	○ 4	○ 5
Kate I. Noble	○ 1	○ 2	○ 3	○ 4	○ 5
Joseph M. Maestas	○ 1	○ 2	○ 3	○ 4	○ 5
Ronald S. Trujillo	○ 1	○ 2	○ 3	○ 4	○ 5

COUNCILOR - RANKED CHOICE VOTING INSTRUCTIONS:

- Rank your 1st - 3rd choice in the columns below.
- Vote from left to right in order of your preference.
- To vote, completely fill in the oval next to your choice, like this: ●

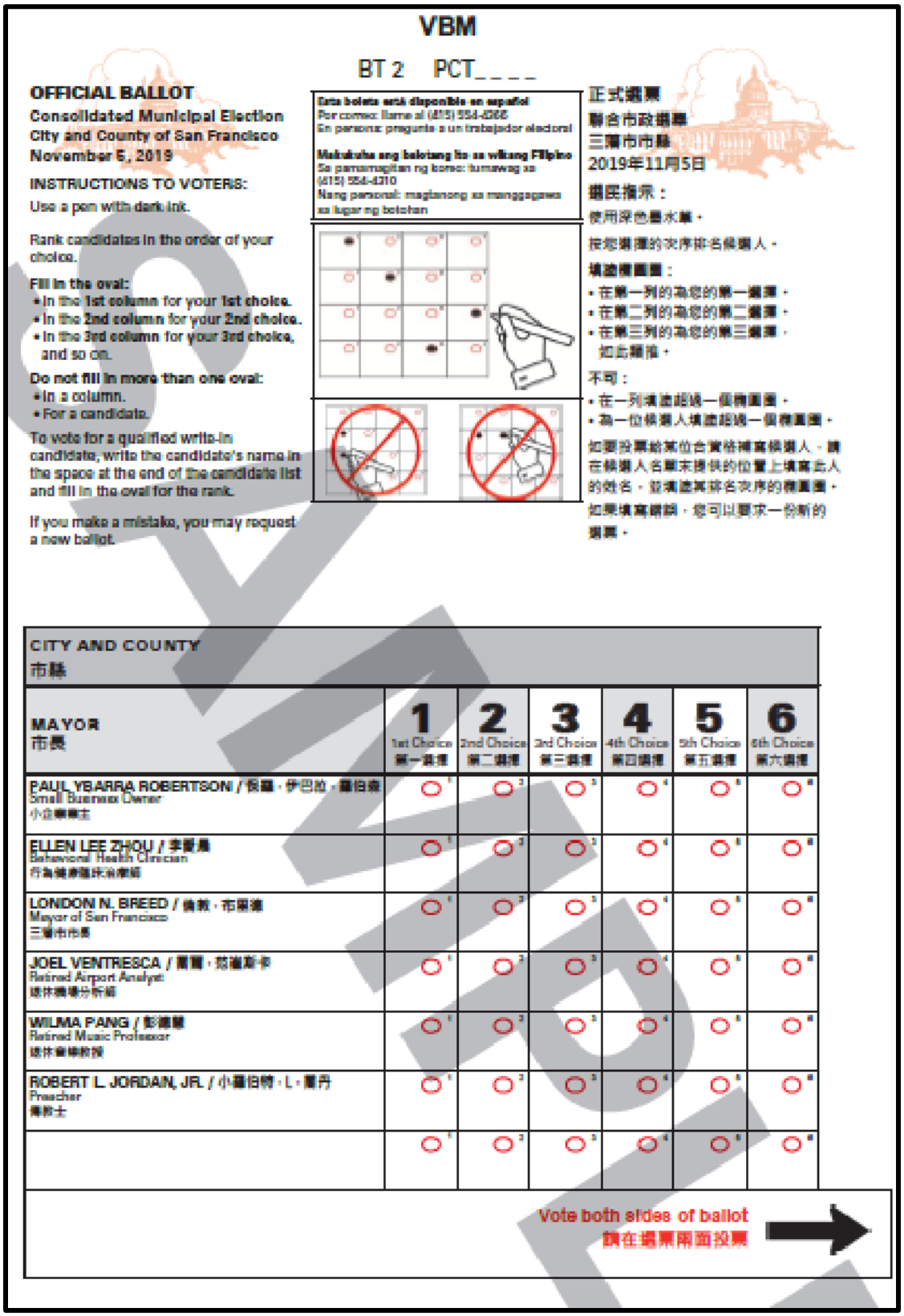
CONCEJAL- INSTRUCCIONES PARA LA VOTACIÓN POR ORDEN DE PREFERENCIA:

- Marque en orden de preferencia usando las columnas del 1 al 3 abajo.
- Vote de izquierda a derecha en orden de preferencia.
- Para votar, llene completamente el óvalo correspondiente a su preferencia, de esta manera: ●

FOR COUNCILOR PARA CONCEJAL DISTRICT 4 - DISTRITO 4 Four (4) Year Term Plazo de Cuatro (4) Años	1st Choice 1ª Opción	2nd Choice 2ª Opción	3rd Choice 3ª Opción
Eric John Holmes	○ 1	○ 2	○ 3
Greg Scargall	○ 1	○ 2	○ 3
JoAnne Vigil Coppler	○ 1	○ 2	○ 3

SAMPLE SAMPLE SAMPLE

Dominion Grid Ballot with Write-Ins



VBM

BT 2 PCT_ _ _ _

OFFICIAL BALLOT
Consolidated Municipal Election
City and County of San Francisco
November 5, 2019

INSTRUCTIONS TO VOTERS:

Use a pen with dark ink.

Rank candidates in the order of your choice.

Fill in the oval:
- In the **1st column** for your **1st choice.**
- In the **2nd column** for your **2nd choice.**
- In the **3rd column** for your **3rd choice,** and so on.

Do not fill in more than one oval:
- In a column.
- For a candidate.

To vote for a qualified write-in candidate, write the candidate's name in the space at the end of the candidate list and fill in the oval for the rank.

If you make a mistake, you may request a new ballot.

Esta boleta está disponible en español
Por correo: llame al (415) 554-4366
En persona: pregunte a un trabajador electoral

Makukuha ang balotang ito sa wikang Filipino
Sa pamamagitan ng koreo: tumawag sa (415) 554-4310
Nang personal: magtanong sa manggagawa sa lugar ng botohan

正式選票
聯合市政選舉
三藩市市縣
2019年11月5日

選民指示：

使用深色墨水筆。

按您選擇的次序排名候選人。

填塗橢圓圈：
- 在第一列的為您的第一選擇。
- 在第二列的為您的第二選擇。
- 在第三列的為您的第三選擇，如此類推。

不可：
- 在一列填塗超過一個橢圓圈。
- 為一位候選人填塗超過一個橢圓圈。

如要投票給某位合資格將寫候選人，請在候選人名單末提供的位置上填寫此人的姓名，並填塗其排名次序的橢圓圈。

如果填寫錯誤，您可以要求一份新的選票。

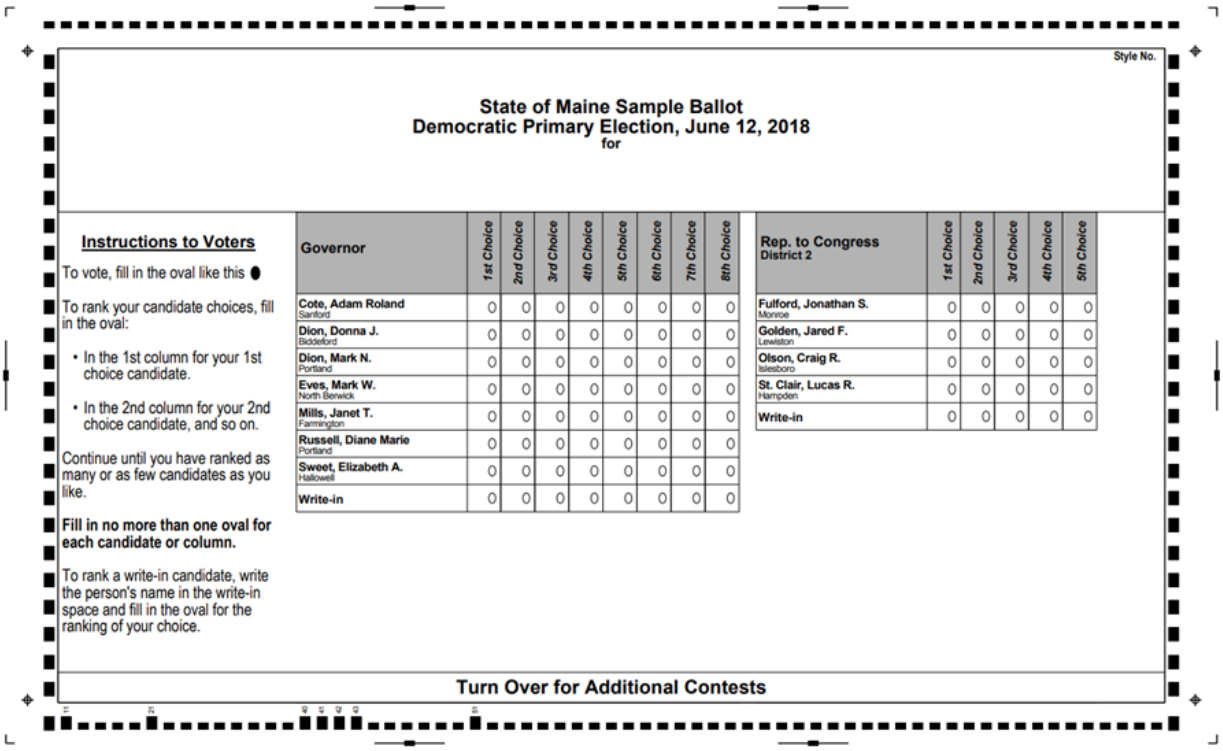
CITY AND COUNTY
市縣

MAYOR 市長	1 1st Choice 第一選擇	2 2nd Choice 第二選擇	3 3rd Choice 第三選擇	4 4th Choice 第四選擇	5 5th Choice 第五選擇	6 6th Choice 第六選擇
PAUL YBARRA ROBERTSON / 保羅·伊巴拉·羅伯森 Small Business Owner 小企業業主	○	○	○	○	○	○
ELLEN LEE ZHOU / 李愛燕 Behavioral Health Clinician 行為健康臨床治療師	○	○	○	○	○	○
LONDON N. BREED / 倫敦·布里德 Mayor of San Francisco 三藩市市長	○	○	○	○	○	○
JOEL VENTRESCA / 喬爾·范崔斯卡 Retired Airport Analyst 退休機場分析師	○	○	○	○	○	○
WILMA PANG / 彭維慧 Retired Music Professor 退休音樂教授	○	○	○	○	○	○
ROBERT L. JORDAN, JR. / 小羅伯特·L·喬丹 Preacher 傳教士	○	○	○	○	○	○
	○	○	○	○	○	○

Vote both sides of ballot
請在選票兩面投票

SAMPLE

ES&S Grid Ballot with Write-Ins



Style No.

State of Maine Sample Ballot
Democratic Primary Election, June 12, 2018
for

Instructions to Voters

To vote, fill in the oval like this ●

To rank your candidate choices, fill in the oval:

- In the 1st column for your 1st choice candidate.
- In the 2nd column for your 2nd choice candidate, and so on.

Continue until you have ranked as many or as few candidates as you like.

Fill in no more than one oval for each candidate or column.

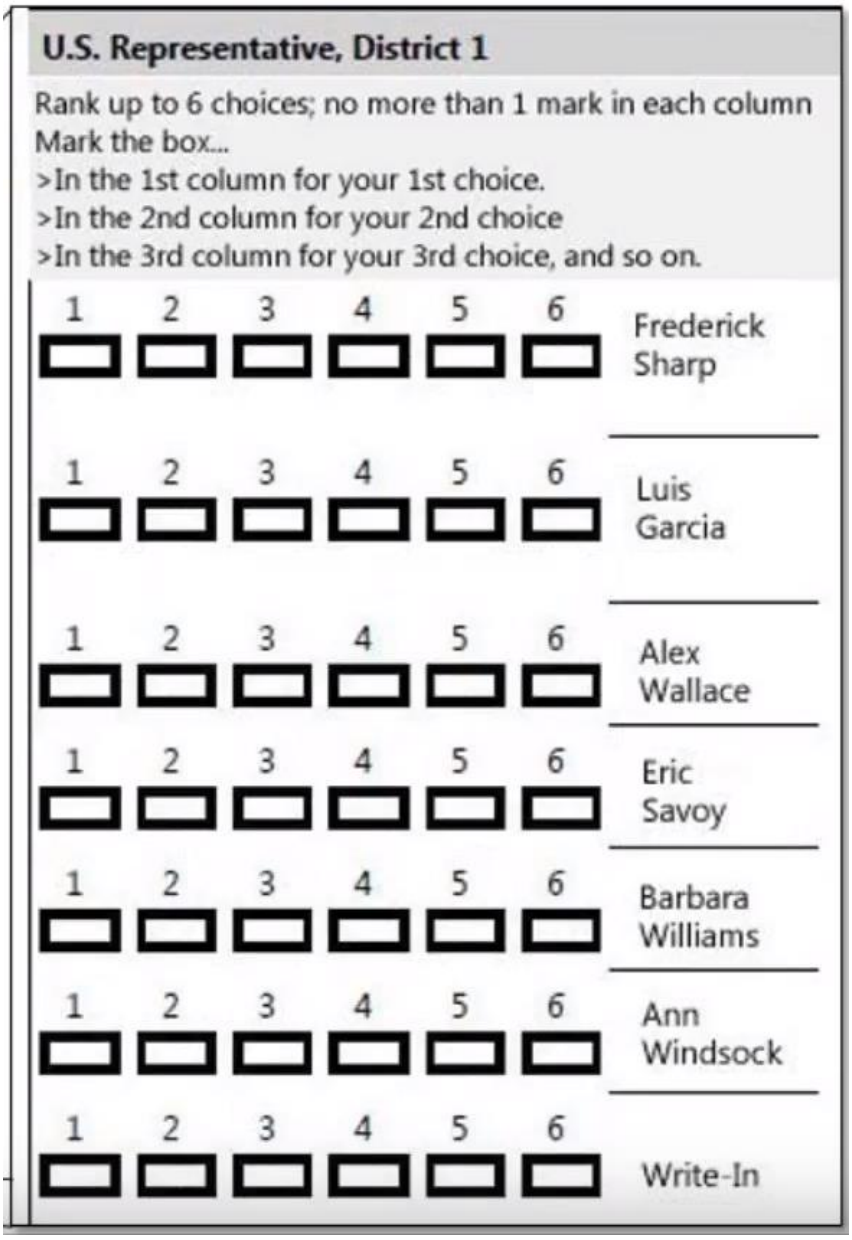
To rank a write-in candidate, write the person's name in the write-in space and fill in the oval for the ranking of your choice.

Governor	1st Choice	2nd Choice	3rd Choice	4th Choice	5th Choice	6th Choice	7th Choice	8th Choice
Cote, Adam Roland (Sanford)	0	0	0	0	0	0	0	0
Dion, Donna J. (Biddeford)	0	0	0	0	0	0	0	0
Dion, Mark N. (Portland)	0	0	0	0	0	0	0	0
Eves, Mark W. (North Berwick)	0	0	0	0	0	0	0	0
Mills, Janet T. (Farmington)	0	0	0	0	0	0	0	0
Russell, Diane Marie (Portland)	0	0	0	0	0	0	0	0
Sweet, Elizabeth A. (Hallowell)	0	0	0	0	0	0	0	0
Write-in	0	0	0	0	0	0	0	0

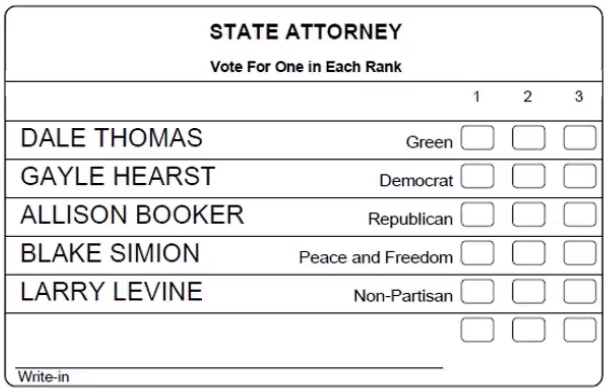
Rep. to Congress District 2	1st Choice	2nd Choice	3rd Choice	4th Choice	5th Choice
Fulford, Jonathan S. (Monroe)	0	0	0	0	0
Golden, Jared F. (Lewiston)	0	0	0	0	0
Olson, Craig R. (Islesboro)	0	0	0	0	0
St. Clair, Lucas R. (Hampden)	0	0	0	0	0
Write-in	0	0	0	0	0

Turn Over for Additional Contests

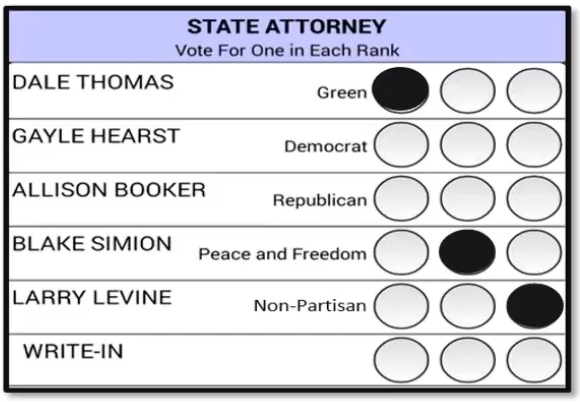
Hart Grid Ballot with Write-Ins



Unisyn Grid Ballot with Write-Ins



Paper Ballot



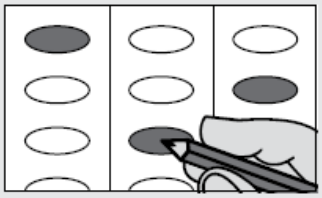
Digital Ballot

Best Practices Column-Style Ballot

Official Ballot
Franklin County, California General Election Tuesday, November 6, 2012 **2/2**

Instructions for Ranked Choice Voting

1. Pick your 1st choice candidate and completely fill in the oval next to that candidate under First Choice.
2. If you have a 2nd choice candidate, fill in the oval next to that candidate under Second Choice.
3. Mark your 3rd choice candidate, if you have one, the same way under Third Choice.



- Mark **at least one candidate** for your vote to count.
- If you make a mistake ask for a new ballot. Otherwise your vote may not count.
- All three choices must be different from each other.
- Don't mark more than one in each column.

Mayor

1 First Choice Fill in one oval	2 Second Choice Fill in one oval	3 Third Choice Fill in one oval
⬭ **Frederick Sharp** Orange Party	⬭ **Frederick Sharp** Orange Party	⬭ **Frederick Sharp** Orange Party
⬭ **Luis Garcia** Orange Party	⬭ **Luis Garcia** Orange Party	⬭ **Luis Garcia** Orange Party
⬭ **Alex Wallace** Purple Party	⬭ **Alex Wallace** Purple Party	⬭ **Alex Wallace** Purple Party
⬭ **Eric Savoy** Purple Party	⬭ **Eric Savoy** Purple Party	⬭ **Eric Savoy** Purple Party
⬭ **Barbara Williams** Tan Party	⬭ **Barbara Williams** Tan Party	⬭ **Barbara Williams** Tan Party
⬭ **Lillian Cohen** Lime Party	⬭ **Lillian Cohen** Lime Party	⬭ **Lillian Cohen** Lime Party
⬭ **Ann Windsock** Independent	⬭ **Ann Windsock** Independent	⬭ **Ann Windsock** Independent
⬭ **Markos Miller** Silver Party	⬭ **Markos Miller** Silver Party	⬭ **Markos Miller** Silver Party

ES&S Column Ballot with Write-Ins

Official Ballot
City General Election Ballot
City of Minneapolis
November 7, 2017

Judge _____ Judge _____

Ranked Choice Voting Instructions to the Voters
Rank up to 3 different candidates for each office.
Vote from left to right in each office in order of your preference.
To vote, completely fill in the oval(s) next to your choice(s) like this: ⬬

City Offices

Mayor

Rank your first, second and third choice candidates in the columns below. One to be elected.

1	2	3
1st Choice Select One	2nd Choice, if any Must be DIFFERENT from your 1st choice. Select One	3rd Choice, if any Must be DIFFERENT from your 1st and 2nd choices. Select One
⬭ Charlie Gers Libertarian Party	⬭ Charlie Gers Libertarian Party	⬭ Charlie Gers Libertarian Party
⬭ David Rosenfeld Socialist Workers Party	⬭ David Rosenfeld Socialist Workers Party	⬭ David Rosenfeld Socialist Workers Party
⬭ Ian Simpson The Idea Party	⬭ Ian Simpson The Idea Party	⬭ Ian Simpson The Idea Party
⬭ Captain Jack Sparrow Basic Income Guarantee	⬭ Captain Jack Sparrow Basic Income Guarantee	⬭ Captain Jack Sparrow Basic Income Guarantee
⬭ Troy Benjegerdes Farmer Labor	⬭ Troy Benjegerdes Farmer Labor	⬭ Troy Benjegerdes Farmer Labor
⬭ Aswar Rahman Democratic-Farmer-Labor	⬭ Aswar Rahman Democratic-Farmer-Labor	⬭ Aswar Rahman Democratic-Farmer-Labor
⬭ Al Flowers Democratic-Farmer-Labor	⬭ Al Flowers Democratic-Farmer-Labor	⬭ Al Flowers Democratic-Farmer-Labor
⬭ Raymond Dehn Democratic-Farmer-Labor	⬭ Raymond Dehn Democratic-Farmer-Labor	⬭ Raymond Dehn Democratic-Farmer-Labor
⬭ Tom Hoch Democratic-Farmer-Labor	⬭ Tom Hoch Democratic-Farmer-Labor	⬭ Tom Hoch Democratic-Farmer-Labor
⬭ David John Wilson Rainbows Butterflies Unicorns	⬭ David John Wilson Rainbows Butterflies Unicorns	⬭ David John Wilson Rainbows Butterflies Unicorns
⬭ Ronald Lischeid People Over Politics	⬭ Ronald Lischeid People Over Politics	⬭ Ronald Lischeid People Over Politics
⬭ L.A. Nik Independent	⬭ L.A. Nik Independent	⬭ L.A. Nik Independent
⬭ Nekima Levy-Pounds Democratic-Farmer-Labor	⬭ Nekima Levy-Pounds Democratic-Farmer-Labor	⬭ Nekima Levy-Pounds Democratic-Farmer-Labor
⬭ Jacob Frey Democratic-Farmer-Labor	⬭ Jacob Frey Democratic-Farmer-Labor	⬭ Jacob Frey Democratic-Farmer-Labor
⬭ Gregg A. Iverson Democratic-Farmer-Labor	⬭ Gregg A. Iverson Democratic-Farmer-Labor	⬭ Gregg A. Iverson Democratic-Farmer-Labor
⬭ Betsy Hodges Democratic-Farmer-Labor	⬭ Betsy Hodges Democratic-Farmer-Labor	⬭ Betsy Hodges Democratic-Farmer-Labor
⬭	⬭	⬭
write-in, if any	write-in, if any	write-in, if any

Council Member Ward Three

Rank your first, second and third choice candidates in the columns below. One to be elected.

1	2	3
1st Choice Select One	2nd Choice, if any Must be DIFFERENT from your 1st choice. Select One	3rd Choice, if any Must be DIFFERENT from your 1st and 2nd choices. Select One
⬭ Samantha Pree-Stinson Green Party Endorsed	⬭ Samantha Pree-Stinson Green Party Endorsed	⬭ Samantha Pree-Stinson Green Party Endorsed
⬭ Steve Fletcher Democratic-Farmer-Labor	⬭ Steve Fletcher Democratic-Farmer-Labor	⬭ Steve Fletcher Democratic-Farmer-Labor
⬭ Tim Bildsoe Democratic-Farmer-Labor	⬭ Tim Bildsoe Democratic-Farmer-Labor	⬭ Tim Bildsoe Democratic-Farmer-Labor
⬭ Ginger Jentzen Socialist Alternative	⬭ Ginger Jentzen Socialist Alternative	⬭ Ginger Jentzen Socialist Alternative
⬭	⬭	⬭
write-in, if any	write-in, if any	write-in, if any

Vote Front and Back of Ballot

MINNEAPOLIS W-3 P-06
1485

Typ:01 Seq:0082 Spl:01

SAMPLE

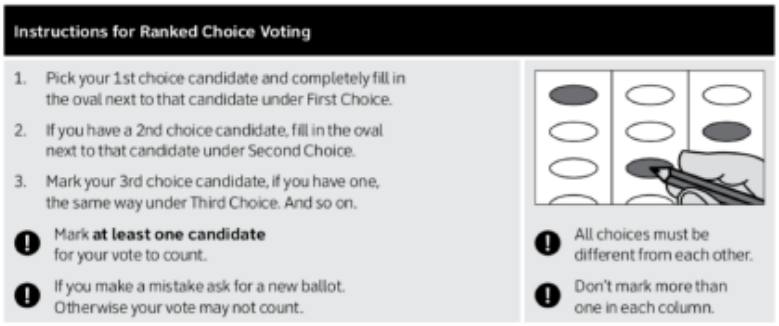
Choosing a ranked choice ballot design layout

Two styles of ballot instructions

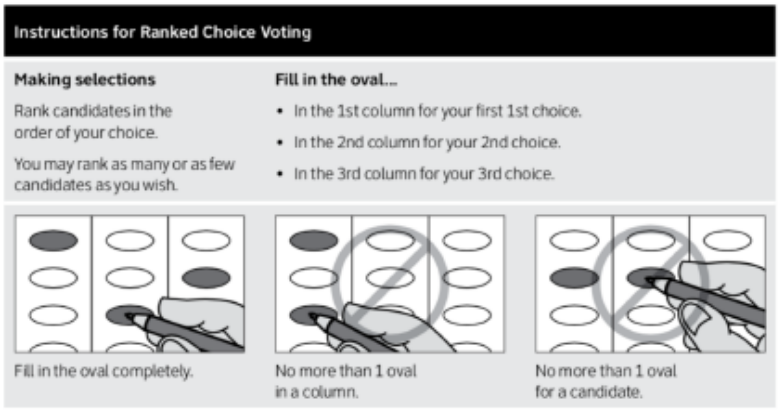
Both instruction styles had been used during the earlier studies. There were no differences in voter preferences. All liked having illustrations and clear instructions.

- Both filled the entire width of the ballot above the first ranked choice contest.
- Both work for either grid or 3-column ballot styles.

Instruction style A



Instruction style B



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We thank you for your ongoing support of our organization.

Acknowledgements

Our work is only possible by the generosity of our donors. RCVRC is a nonpartisan, 501(c)3 nonprofit. For more information or to make a donation, please visit our website at www.rcvresources.org.

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Ranked Choice Voting
RESOURCE CENTER

This document is a summary of voting system capabilities for ranked choice voting (RCV) elections. Revised May 2019 from previous version released in 2017.

Major Voting Equipment Vendors' Ranked Choice Voting Capabilities

(Version 2.0, May 2019)

In 2017 the Ranked Choice Voting Resource Center (RCVRC) compiled its first report on the ranked choice voting (RCV) capabilities of voting systems used in the United States. Since that time, great strides have been made by voting systems companies to include this voting method in their systems and more jurisdictions have upgraded from their older, legacy voting systems. With these improvements, the focus of this report centers on current voting systems with supplemental information regarding legacy equipment. Much of our information comes from presentations by vendor representatives during our RCV Symposium held April 2018 and discussions with company representatives since that time. Recordings of these presentations and post-symposium question and answer documents can be found at https://www.rankedchoicevoting.org/rcv_online_symposium.

Summary of Current Voting System RCV Capabilities by Vendor

The four largest voting equipment vendors servicing elections in the United States all have RCV capabilities as part of their current voting systems. The following provides an overview of what each vendor provides. Jurisdictions should check with the vendor regarding specific configurations and pricing. Furthermore, standards vary by state, so additional certification or evaluation may be required.

- **Dominion Voting**
  - **Election Management System compatible with RCV:** Democracy Suite (Version 5.2 and higher)
  - **Voting Equipment compatible with RCV:** ImageCast Evolution, ImageCast Precinct, ImageCast Central, ImageCast Remote
  - **RCV Ballot Design:** Grid | Up to 10 rankings | Can include non-RCV contests
  - **RCV Tabulation:** Single-winner and multi-winner RCV | Built-in tabulation
  - **Symposium Summary:** Dominion Voting offers built-in RCV tabulation with its Democracy Suite software, beginning with Version 5.2, in combination with its ImageCast voting equipment. Dominion's system can produce a ballot with both RCV and non-RCV contests. The system allows for up to 10 rankings in a grid-style ballot. To tabulate, RCV ballot data from voting equipment is loaded into the Democracy Suite system with other election contest data. Using the built-in RCV tabulation software, officials select to run the RCV algorithm to generate real time results for single-winner or multi-winner RCV. The system can continually update the results as additional ballot data is added. Results reports are available round-by-round and by district.

- **Election Systems & Software (ES&S)**
  - **Election Management System compatible with RCV:** Electionware
  - **Voting Equipment compatible with RCV:** DS200, DS450, DS850, ExpressTouch, ExpressVote, AutoMARK

- **RCV Ballot Design:** Grid or column | Up to 21 rankings (portrait ballot) or 23 rankings (landscape ballot) | Can include non-RCV contests
- **RCV Tabulation:** Single-winner RCV | Tabulation through ExpressRunoff (separate module)
- **Symposium Summary:** ES&S's Electionware election management system, and compatible equipment, offers RCV ballot design, capture, and tabulation. ES&S's system can produce a ballot with both RCV and non-RCV contests, for single-winner and multi-winner contests. Ballots can be in landscape or portrait layouts and use grid or column designs for RCV contests. Cast vote records can be exported for tabulation in the company's separate module, ExpressRunoff, which is currently limited to single-winner RCV. See "RCVRC Tabulator" below for information on tabulating multi-winner contests. Reports are generated showing round by round tabulation in an Excel spreadsheet and are time stamped. A comprehensive report may also be selected.

- **Hart InterCivic**
  - **Election Management System compatible with RCV:** Verity
  - **Voting Equipment compatible with RCV:** Verity Scan, Verity Touch, Verity Touch Writer, Verity Central, Verity Duo
  - **RCV Ballot Design:** Grid (paper ballots) | EAC/AIGA touchscreen "Design for Democracy" (electronic ballots) | Up to 6 rankings
  - **RCV Tabulation:** Tabulates first round | Additional rounds through customized software or third-party vendor
  - **Symposium Summary:** Hart's Verity system can be used to create and record a ballot with RCV contests. Verity Scan and Verity Central (paper ballot scanners), Verity Touch (DRE), and Verity Touch Writer (accessibility ballot marking) can process selections and record cast vote records for RCV contests. In the Verity Data software, the election official/user makes ballot design specifications and sets the voting logic for each contest, including a selection option for ranked choice. Additional election data entry allows the official to designate both RCV and non-RCV contests and determine the contest order. The system allows for up to six rankings in an RCV contest. The Verity system does not offer full RCV tabulation. The system provides vote tabulation for the first round of an RCV contest, then subsequent rounds must be tabulated by third-party software (detailed below) or by contracting with Hart InterCivic to create separate tabulation software.

- **Unisyn Voting**
  - **Election Management System compatible with RCV:** OpenElect
  - **Voting Equipment compatible with RCV:** OpenElect OVO, OpenElect FVT, OpenElect OVI-VC, OpenElect OVCS, OpenElect OCS
  - **RCV Ballot Design:** Grid | Up to 3 rankings
  - **RCV Tabulation:** Single-winner RCV | Built-in tabulation
  - **Symposium Summary:** Unisyn's OpenElect was the first integrated VVSG certified voting system to support RCV (January 2010). OpenElect allows up to three rankings using a grid-style ballot. Both RCV and non-RCV contests can be placed on the same ballot through this system. Vote data is collected and cast vote records are uploaded into the

tally system. The tally system allows the official to select rules for invalid rankings and tiebreaking. Current tabulation is for single-winner RCV, with multi-winner RCV under development.

Other Voting Systems

Three other vendors provide voting systems to a limited number of U.S. jurisdictions: **Clear Ballot, MicroVote, and Smartmatic**. These systems do not currently have RCV ballot design or tabulation.

RCV Capabilities of Legacy Voting Systems

While nearly all of the latest voting systems in use in the U.S. have RCV capabilities, determining the capabilities of the previous generation of voting systems, which we refer to as legacy systems, is more difficult. A legacy voting system's RCV capability is dependent upon the configuration of the hardware, firmware, and software, which vary by vendor; when the system was purchased or leased; and firmware or software upgrades that may have been performed since purchase. Built-in RCV capability or the ability for the voting system to generate cast vote records (CVR) also impacts a voting system's RCV capability.[1]

Ballot design and tabulation (by third-party software) are possible with the following voting systems:

- **ES&S iVotronic:** RCV ballots can be cast through the **iVotronic**. The system can capture and export CVRs, making it the only RCV-capable legacy voting equipment from ES&S. CVR files can be extracted from the voting equipment for tabulation by a third-party tabulation system.
- **Hart InterCivic's** previous voting system, HVS software with compatible hardware **Ballot Now** (high speed scanner), **eScan** (optical scan), and **eSlate** (DRE), does not have built-in RCV tabulation. RCV ballots can be designed for this system with the HVS software, and CVR files can be extracted from the voting equipment for tabulation by a third-party tabulation system.
- **Sequoia (Dominion)[2] AVC Advantage, AVC Edge, and Optech** models are capable of generating CVR data using column-style RCV ballots for third-party RCV tabulation.

Ballot design only:

- **Premier/Diebold (Dominion)[3] AccuVote** models generate ballot data in PDF format but do not generate software-readable CVR data, which limits the ability to tabulate RCV contests without

---

[1] Voting system is an umbrella term for the hardware, firmware, and software used in elections, which are broadly defined as: hardware, the voting equipment machines used to cast a ballot; firmware, installed in voting equipment to make the machines compatible with the software; and software, used to design and tabulate ballots. Cast vote records are data of the votes cast. If these anonymous, secure records can be extracted from the voting system, then a third-party software or application can be used to tabulate RCV results.

[2] Sequoia Voting Systems was acquired by Dominion Voting Systems in 2010.

[3] Premier Election Solutions, previously Diebold Election Systems, was acquired in 2009 by ES&S and was partially acquired by Dominion Voting Systems in 2010 after an antitrust ruling.

converting the PDF files into software-readable data. While this is feasible, it has not yet been demonstrated and is not supported by Dominion.

Third Party Support for RCV Elections

A number of groups provide RCV tabulation support or have developed applications for RCV tabulation. The two most prominent are:

- **MK Election Services** uses ChoicePlus Pro to tabulate RCV results from CVRs generated by voting systems in Cambridge, MA, and Portland, ME.
- **Bright Spots** is a cutting-edge group based in San Francisco, working to use technology to promote democracy. This group is helping the RCVRC to develop the RCVRC Tabulator software outlined below.

RCVRC Tabulator

The RCVRC and Bright Spots have developed the RCVRC Tabulator, software that can take cast vote records (CVRs) from all voting equipment capable of exporting such records in data file format and tabulate RCV results from those CVRs. The RCVRC tabulator is planned to be adaptable to as many RCV jurisdictions as possible using current or legacy voting equipment. It will also allow for tabulation and aggregation of RCV results when multiple voting systems are used (i.e., a statewide election or an election across county lines).

The Tabulator has been used to successfully verify RCV elections results in the 2018 Maine elections as well as 2013 and 2017 Minneapolis RCV elections. It was also used in Benton County, OR, to verify the ES&S tabulation module during its local certification process.

Evaluation by an EAC-approved testing lab is expected by mid-2019. The RCVRC Tabulator is free, open-source software available through https://www.rankedchoicevoting.org/universal_rcv_tabulator.

Version Date: 5/29/2019

VENDOR	VENDOR WEBSITE	HEADQUARTERS
UNISYN VOTING	www.unisynvoting.com	2310 Cousteau Court, Vista, CA 92081
HART INTERCIVIC	WWW.HARTINTERCIVIC.COM	15500 Wells Port Drive, Austin, TX 78728
ELECTION SYSTEMS & SOFTWARE (ES&S)	WWW.ESSVOTE.COM	11208 John Galt Blvd., Omaha, NE 68137
DOMINION VOTING	www.dominionvoting.com	1201 18th Streeet, Ste 210, Denver, CO, 80202; 215 Spadina Ave, Toronto, ON M5T 2C7, Canada

NOTE: The Voting Systems RCV Capability Table will be expanded to include additional vendors and third-party tabulation. The information presented is for the four largest voting system vendors, which are also the vendors with RCV capabilities, as of 5/29/2019.

NOTE: The information presented is for the voting system vendors with RCV capabilities as of 5/29/2019.

Version Date: 5/29/2019	VOTING SYSTEMS CAPABILITY FOR RANKED CHOICE VOTING (RCV)							
VENDOR	**SOFTWARE/ELECTION MANAGEMENT SYSTEM (EMS)** *Note: Version should be confirmed with vendor.*	**VOTING EQUIPMENT COMPATIBLE WITH RCV**	**CAN SOFTWARE/EMS BE USED TO DESIGN RCV BALLOT?**	**TYPE OF RCV BALLOT DESIGN**	**MAXIMUM NUMBER OF RANKINGS**	**CAN SOFTWARE/EMS TABULATE RCV?**	**MULTI-WINNER RCV CAPABLE?**	**SUMMARY FROM APRIL 2018 RCV SYMPOSIUM**
UNISYN VOTING								
	OpenElect	**OpenElect OVO OpenElect FVT OpenElect OVI-VC OpenElect OVCS OpenElect OCS**	**Yes**	**Grid**	**3**	**Yes**	**Not currently**	Unisyn's OpenElect was the first integrated VVSG certified voting system to support RCV (January 2010). OpenElect allows up to three rankings using a grid-style ballot. Both RCV and non-RCV contests can be placed on the same ballot through this system. Vote data is collected and cast vote records are uploaded into the tally system. The tally system allows the official to select rules for invalid rankings and tiebreaking. Current tabulation is for single-winner RCV, with multi-winner RCV under development.
HART INTERCIVIC								
	Verity (2.0 & higher)	**Verity Scan Verity Touch Verity Touch Writer Verity Central Verity Duo**	**Yes**	**Grid (paper) EAC/AIGA touchscreen "Design for Democracy" (electronic ballots)**	**6**	**No Tabulates first round. Additional rounds must be tabulated with customized software or third-party software**	**Not currently**	Hart's Verity system can be used to create and record a ballot with RCV contests. Verity Scan and Verity Central (paper ballot scanners), Verity Touch (DRE), and Verity Touch Writer (accessibility ballot marking) can process selections and record cast vote records for RCV contests. In the Verity Data software, the election official/user makes ballot design specifications and sets the voting logic for each contest, including a selection option for ranked choice. Additional election data entry allows the official to designate both RCV and non-RCV contests and determine the contest order. The system allows for up to six rankings in an RCV contest. The Verity system does not offer full RCV tabulation. The system provides vote tabulation for the first round of an RCV contest, then subsequent rounds must be tabulated by third-party software (detailed below) or by contracting with Hart InterCivic to create separate tabulation software.
ES&S								
	Electionware	**DS200 DS450 DS850 ExpressTouch ExpressVote AutoMARK**	**Yes**	**Grid or Column**	**21 (portrait ballot) 23 (landscape ballot)**	**Yes Through ExpressRunoff (separate ES&S module)**	**Not currently**	ES&S's Electionware election management system, and compatible equipment, offers RCV ballot design, capture, and tabulation. ES&S's system can produce a ballot with both RCV and non-RCV contests, for single-winner and multi-winner contests. Ballots can be in landscape or portrait layouts and use grid or column designs for RCV contests. Cast vote records can be exported for tabulation in the company's separate module, ExpressRunoff, which is currently limited to single-winner RCV. See "RCVRC Tabulator" below for information on tabulating multi-winner contests. Reports are generated showing round by round tabulation in an Excel spreadsheet and are time stamped. A comprehensive report may also be selected.
DOMINION VOTING								
	Democracy Suite (5.2 & higher)	**ImageCast Evolution ImageCast Precinct ImageCast Central ImageCast Remote**	**Yes**	**Grid**	**10**	**Yes**	**Yes**	Dominion Voting offers built-in RCV tabulation with its Democracy Suite software, beginning with Version 5.2, in combination with its ImageCast voting equipment. Dominion's system can produce a ballot with both RCV and non-RCV contests. The system allows for up to 10 rankings in a grid-style ballot. To tabulate, RCV ballot data from voting equipment is loaded into the Democracy Suite system with other election contest data. Using the built-in RCV tabulation software, officials select to run the RCV algorithm to generate real time results for single-winner or multi-winner RCV. The system can continually update the results as additional ballot data is added. Results reports are available round-by-round and by district.

Rob Richie, President and CEO, FairVote provided the following information:

FairVote

August 10, 2021

Nicole Galloway
State Auditor of Missouri
301 West High Street, Room 880
Jefferson City, MO 65102 moaudit@auditor.mo.gov

RE: PETITIONS 22-051 AND 22-052

Dear Auditor Galloway,

I'm president and CEO of FairVote, a nonpartisan, nonprofit organization that has been a leading advocate and analyst of ranked choice voting since I helped found the organization as its executive director in 1992. I have been closely involved in a number of implementations of ranked choice voting over the past two decades; ranked choice voting will be used in the next elections held by two states and more than 50 cities and counties in the United States.

I am writing about the estimated fiscal impact of initiative petitions 22-051 and 22-052. The Ranked Choice Voting Resource Center, a nonpartisan organization that is run by former election officials with experience in ranked choice voting in statewide and local elections, has engaged in a comprehensive analysis of ranked choice voting in Missouri. Its analysis shows that at least 107 of Missouri's 116 local election authorities have voting machines that are compatible with ranked-choice voting methods.

If passed, petitions 22-051 and 22-052 would not take effect until elections in 2023 or later. Public records show that Missouri jurisdictions that lacked ranked-choice voting-compatible machines when the Resource Center's report was completed are in the process of securing deploy new, modern machines — with or without passage of 22-051 and 22-052.

I will note that estimates of the costs of implementation of ranked choice voting often skew high, and actual costs will depend on decisions made by election officials. For example, the official fiscal note from Maine election officials before and after its voters passed ranked choice voting in 2016 was more than $1.5 million. The actual costs in the June 2018 statewide primary elections for governor and other state and congressional primaries were less than $100,000. When North Carolina election officials learned in August 2010 they had to run a statewide ranked choice election in November 2010 for a judicial vacancy election with 13 candidates, they found a way to do so within their current budget.

Any taxpayer costs associated with voter education also are not intrinsic to adoption of ranked choice voting. Some jurisdictions like Maine have adopted and implemented ranked choice voting with virtually no extra money spent on voter education, and voters in those jurisdictions have handled the new system very well if, as in Maine, the state develops a good ballot design with its vendors.

In short, given what we know about Missouri and given the history of implementation of RCV in other states and cities, we agree with estimates from the Ranked Choice Voting Resource Center that the

FairVote Board of Directors: Alice Underwood (Chair)
Cynthia Okechukwu ○ Brenda Choresi Carter ○ Tim Hayes ○ Jennifer Nassour
David Wilner ○ Donald Marron ○ Mark de la Iglesia

fiscal impact of 22-051 and 22-052 are to be between $0 and $2.5 million.

If you have any questions about my submission and our experience with ranked choice voting implementation, I can be reached at rr@fairvote.org, (301) 270-4616.

Sincerely yours,



Rob Richie
President and CEO

FairVote Board of Directors: Alice Underwood (Chair)
Cynthia Okechukwu ○ Brenda Choresi Carter ○ Tim Hayes ○ Jennifer Nassour
David Wilner ○ Donald Marron ○ Mark de la Iglesia

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College,** and the **Clay County Board of Election Commissioners.**

Fiscal Note Summary

State and local governmental entities estimate costs of $2.7 million to at least $5.2 million in one-time costs, and ongoing costs of at least $27,000 annually, $170,000 each primary election, $152,000 each general election, and $117,000 for all other elections. State and local governmental entities estimate no savings.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 16, 2021

RECEIVED
JUL 16 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from David Roland regarding a proposed constitutional amendment to Article VIII, version 2 (2022-050)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by David Roland on July 15, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-050

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 3rd day of November, 2020, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	NAME / (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG DIST.	NAME (Printed or Typed)
1.						
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RECEIVED
2021 JUL 15 PM 3:05

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Signature of Notary _____

Address of Notary _____

(Seal)

NOTICE: The proposed amendment revises Article VIII of the Constitution by adopting six new Sections, to be known as Article VIII, Sections 24, 25, 26, 27, 28, and 29.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article VIII of the Constitution is revised by adopting six new Sections, to be known as Article VIII, Sections 24, 25, 26, 27, 28, and 29, to read as follows:

Section 24. 1. Every voting machine used to conduct an election in the State of Missouri shall be tested and certified as secure prior to each election in which the machine will be used. Such testing and certification shall meet all federal standards.
2. Every voting machine used to conduct an election in the State of Missouri shall produce an individual, permanent paper record for each vote cast, which shall be made available for inspection and verification by the voter at the time the vote is cast. Such individual, permanent paper record shall be preserved for use in any election audit.
3. The candidate or their designee shall have the right to be present whenever paper ballots or the permanent paper records produced by electronic voting machines are counted, audited, or placed in storage.

Section 25. 1. Beginning at the August 2024 primary election, and notwithstanding any other provision of law to the contrary, primary elections for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress shall be non-partisan, open primaries where the four candidates for each office receiving the most votes advance to the general election.
2. No person's name shall be printed on a primary ballot unless that person has filed a declaration of candidacy with the Secretary of State's Office and paid a one-hundred-dollar filing fee to the Secretary of State. Notwithstanding any other provision of law to the contrary, a person shall not be required to pay a filing fee to a political party in order to have their name printed on a primary ballot.
3. Primary ballots for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress shall meet the following criteria:
(1) All candidates for an office shall appear on a single ballot.
(2) No political party identifications or affiliations shall be printed next to the names of the candidates or on any part of the ballot.
(3) Primary ballots shall include space for a write-in candidate for such offices.
4. In the primary election for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress, a qualified voter shall be permitted to cast a vote for any candidate for whom that voter is otherwise eligible to vote. A qualified voter shall only vote for one candidate for each office.
5. The four candidates for each office receiving the most votes in the primary election shall advance to the general election for that office. Only those candidates shall appear on the general election ballot.
6. If two or more candidates receive an equal number of votes for the same office such that there is a tie for fourth place, such candidates or their designees shall draw lots to determine whose name shall appear on the general election ballot. If a candidate declines to participate, the election authority may draw lots on their behalf.

Section 26. 1. For the purposes of this section, the following terms mean:
(1) "Active Candidate", a candidate who has not been eliminated during an instant runoff tabulation.
(2) "Overvote", a vote in which the qualified voter has indicated a preference for more than one candidate at the same placement order.
(3) "Order" or "Placement Order", the number a qualified voter assigns to a candidate indicating that voter's preference, with 1 being the highest placement order and 4 being the lowest placement order.
2. Beginning at the November 2024 general election, and notwithstanding any other provision of law to the contrary, general elections for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress shall be non-partisan, instant runoff elections in which a qualified voter may indicate their preferred candidate order on the ballot.
3. No political party identifications or affiliations shall be printed next to the names of the candidates or on any part of the ballot.
4. In a general election conducted under this section, each ballot shall count as one vote for the highest-ordered, Active Candidate on that ballot.
5. If, after the initial tabulation, an Active Candidate receives a majority of the votes cast, that candidate is elected and tabulation is complete.
6. If, after the initial tabulation, an Active Candidate has not received a majority of the highest-ordered votes cast, votes shall be tabulated as follows:
(1) The candidate receiving the fewest number of votes shall be eliminated.
(2) For each ballot cast for an eliminated candidate, the official conducting the tabulation shall determine the highest-ordered, Active Candidate on the ballot. The vote cast on that ballot shall be added to the total number of votes received by that Active Candidate.
(3) Votes shall be tabulated pursuant to subdivisions (1) and (2) of this subsection until an Active Candidate receives the majority of the remaining votes.
7. If a ballot has a placement order that does not contain any candidate, and there are no Active Candidates at a higher placement order, the ballot shall count as a vote for the highest-ordered, Active Candidate listed after that placement order, if any.
8. Ballots shall not be included in the tabulation process in subsection 5 only if:
(1) The ballot does not include an Active Candidate at any placement order; or
(2) The ballot contains an Overvote that includes the highest-ordered, Active Candidate at any point during the tabulation process.

9. If two or more candidates are tied with an equal and lowest number of votes, and the tabulation in subsection 6 cannot continue until the candidate with the lowest number of votes is eliminated, the candidate to be eliminated shall be determined by such candidates or their designees drawing lots to determine who shall be eliminated. Should a candidate decline to participate, the election authority shall draw lots on their behalf.
10. Ballots shall be laid out to allow voters to indicate their preferred candidate order. The ballot shall be simple and easy to understand, consistent with best practices.
11. Instructions on the general election ballot shall include the following statement: "You may mark up to four choices in order of preference. Marking a second choice cannot help defeat your first choice. Marking a subsequent choice cannot help defeat your higher-ordered choices."
12. Beginning at least one hundred twenty days before the first election utilizing the instant runoff system, the Secretary of State and local election authorities shall conduct a voter education campaign to familiarize voters with the instant runoff voting system.

Section 27. 1. Beginning August 1, 2024, and notwithstanding any other provision of law to the contrary, a special election shall be called to fill any vacancy in a statewide office, office of member of the Missouri General Assembly, and office of member of the United States Congress.
2. A special election to fill a vacancy in any such office shall be conducted pursuant to the primary and general election processes described in Sections 25 and 26 of this Article.

Section 28. The Secretary of State shall issue rules and regulations necessary to implement Sections 24 to 27 of this Article. No rule or portion of a rule promulgated under the authority of such Sections shall become effective unless it has been promulgated pursuant to the requirements provided by law.

Section 29. If any provision of Sections 24, 25, 26, or 27 or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 16, 2021

RECEIVED
JUL 16 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from David Roland regarding a proposed constitutional amendment to Article VIII, version 1 (2022-049)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by David Roland on July 15, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-049

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 3rd day of November, 2020, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

RECEIVED JUL 15 2021 PM 3:04

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____. I, _____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.						
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Signature of Notary _____

Address of Notary _____

(Seal)

NOTICE: The proposed amendment revises Article VIII of the Constitution by adopting six new Sections to be known as Article VIII, Sections 24, 25, 26, 27, 28, and 29.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article VIII of the Constitution is revised by adopting six new Sections to be known as Article VIII, Sections 24, 25, 26, 27,28, and 29 to read as follows:

Section 24. 1. Every voting machine used to conduct an election in the State of Missouri shall be tested and certified as secure prior to each election in which the machine will be used. Such testing and certification shall meet all federal standards.
2. Every voting machine used to conduct an election in the State of Missouri shall produce an individual, permanent paper record for each vote cast, which shall be made available for inspection and verification by the voter at the time the vote is cast. Such individual, permanent paper record shall be preserved for use in any election audit.
3. The candidate or their designee shall have the right to be present whenever paper ballots or the permanent paper records produced by electronic voting machines are counted, audited, or placed in storage.

Section 25. 1. Beginning at the August 2024 primary election, and notwithstanding any other provision of law to the contrary, primary elections for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress shall be open primaries where the four candidates for each office receiving the most votes advance to the general election.
2. Primary ballots for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress shall meet the following criteria:
(1) All candidates for an office shall appear on a single ballot.
(2) Primary ballots shall include space for a write-in candidate for such offices.
3. In the primary election for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress, a qualified voter shall be permitted to cast a vote for any candidate for whom that voter is otherwise eligible to vote. A qualified voter shall only vote for one candidate for each office.
4. The four candidates for each office receiving the most votes in the primary election shall advance to the general election for that office. Only those candidates shall appear on the general election ballot.
5. If two or more candidates receive an equal number of votes for the same office, such that there is a tie for fourth place, such candidates or their designees shall have the right to draw lots to determine whose name shall appear on the general election ballot. If a candidate declines to participate, the election authority may draw lots on their behalf.

Section 26. 1. For the purposes of this section, the following terms mean:
(1) "Active Candidate", a candidate who has not been eliminated during an instant runoff tabulation.
(2) "Overvote", a vote in which the qualified voter has indicated a preference for more than one candidate at the same placement order.
(3) "Order" or "Placement Order", the number a qualified voter assigns to a candidate indicating that voter's preference, with 1 being the highest placement order and 4 being the lowest placement order.
2. Beginning at the November 2024 general election, and notwithstanding any other provision of law to the contrary, general elections for all statewide offices, members of the Missouri General Assembly, and members of the United States Congress shall be instant runoff elections in which a qualified voter may indicate their preferred candidate order on the ballot.
3. In a general election conducted under this section, each ballot shall count as one vote for the highest-ordered, Active Candidate on that ballot.
4. If, after the initial tabulation, an Active Candidate receives a majority of the votes cast, that candidate is elected and tabulation is complete.
5. If, after the initial tabulation, an Active Candidate has not received a majority of the highest-ordered votes cast, votes shall be tabulated as follows:
(1) The candidate receiving the fewest number of votes shall be eliminated.
(2) For each ballot cast for an eliminated candidate, the official conducting the tabulation shall determine the highest-ordered, Active Candidate on the ballot. The vote cast on that ballot shall be added to the total number of votes received by that Active Candidate.
(3) Votes shall be tabulated pursuant to subdivisions (1) and (2) of this subsection until an Active Candidate receives the majority of the remaining votes.
6. If a ballot has a placement order that does not contain any candidate, and there are no Active Candidates at a higher placement order, the ballot shall count as a vote for the highest-ordered Active Candidate listed after that placement order, if any.
7. Ballots shall not be included in the tabulation process in subsection 5 only if:
(1) The ballot does not include an Active Candidate at any placement order; or
(2) The ballot contains an Overvote that includes the highest-ordered, Active Candidate at any point during the tabulation process.
8. If two or more candidates are tied with an equal and lowest number of votes, and the tabulation in subsection 5 cannot continue until the candidate with the lowest number of votes is eliminated, the candidate to be eliminated shall be determined by such candidates or their designees drawing lots to determine who shall be eliminated. Should a candidate decline to participate, the election authority shall draw lots on their behalf.
9. Ballots shall be laid out to allow voters to indicate their preferred candidate order. The ballot shall be simple and easy to understand, consistent with best practices.
10. Instructions on the general election ballot shall include the following statement: "You may mark up to four choices in order of preference. Marking a second choice cannot help defeat your first choice. Marking a subsequent choice cannot help defeat your higher-ordered choices."

11. Beginning at least one hundred twenty days before the first election utilizing the instant runoff system, the Secretary of State and local election authorities shall conduct a voter education campaign to familiarize voters with the instant runoff voting system.
12. Notwithstanding any other provision of law to the contrary, the aggregated vote totals from the initial tabulation shall be used, as may be required by any other law, for the purposes of identifying the two major political parties.

Section 27. 1. Beginning August 1, 2024, and notwithstanding any other provision of law to the contrary, a special election shall be called to fill any vacancy in a statewide office, office of member of the Missouri General Assembly, and office of member of the United States Congress.
2. A special election to fill a vacancy in any such office shall be conducted pursuant to the primary and general election processes described in Sections 25 and 26 of this Article.

Section 28. The Secretary of State shall issue rules and regulations necessary to implement Sections 24 to 27 of this Article. No rule or portion of a rule promulgated under the authority of such Sections shall become effective unless it has been promulgated pursuant to the requirements provided by law.

Section 29. If any provision of Sections 24, 25, 26, or 27 or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 15, 2021

RECEIVED
JUL 15 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Article XIV (2022-048)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on July 15, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-048

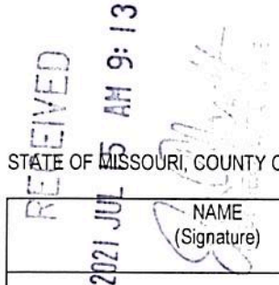
It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.



[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article XIV of the Constitution is revised by amending Section 1 to read as follows:

Section 1. 1. Purposes.

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the [limited] legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

2. Definitions.

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the department of health and senior services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" or "marihuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp [containing a cropwide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis] <u>as defined by federal law</u>, or commodities or products manufactured from industrial hemp <u>as defined by federal law</u>.

(6) "Marijuana-infused products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(7) "Medical marijuana cultivation facility" means a facility licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

(8) "Medical marijuana dispensary facility" means a facility licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

(9) "Medical marijuana-infused products manufacturing facility" means a facility licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

(10) "Medical marijuana testing facility" means a facility certified by the department to acquire, test, certify, and transport marijuana.

(11) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(12) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(13) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.

(14) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department. Any health care provider licensed under the laws of the state may also serve as a primary caregiver. A qualifying patient may have up to three primary caregivers.

(15) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory

bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(16) "Qualifying patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

3. Creating Patient Access to Medical Marijuana.

(1) In carrying out the implementation of this section, the department shall have the authority to:

(a) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and for the enforcement of this section so long as patient access is not restricted unreasonably and such rules are reasonably necessary for patient safety or to restrict access to only licensees and qualifying patients.

(c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver to ensure that no medical marijuana grown by a medical marijuana cultivation facility or manufactured by a medical marijuana-infused products manufacturing facility is sold or otherwise transferred except by a medical marijuana dispensary facility. The department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities which demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another entity with a transportation certification. The department shall develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation of marijuana. Any entity licensed or certified pursuant to this section shall be allowed to transport cannabis.

(f) The department may charge a fee not to exceed $5,000 for any certification issued pursuant to this section.

(g) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the department under this section;

[(h) Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section, which scoring shall be limited to an analysis of the following:

(i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers;

(ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income qualifying patients;

(iii) site security;

(iv) experience in a legal cannabis market;

(v) in the case of medical marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience;

(vi) the potential for positive economic impact in the site community;

(vii) in the case of medical marijuana cultivation facilities, capacity or experience with agriculture, horticulture, and health care;

(viii) in the case of medical marijuana dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;

(ix) in the case of medical marijuana-infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and

(x) maintaining competitiveness in the marijuana for medical use marketplace.

In ranking applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise regarding these factors. The department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by qualifying patients.]

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the medical marijuana dispensary facility, product display and examination by the qualifying patient and/or primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed or certified pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, [shall] <u>may</u> forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a

fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530;

(i) Security requirements for any premises licensed or certified pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a medical marijuana dispensary facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. The department shall not require any medical marijuana or medical marijuana-infused products to be tested more than once prior to sale.

(4) The department shall issue rules or emergency rules to provide for the certification of and standards for medical marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as medical marijuana testing facilities. No medical marijuana testing facility shall be owned by an entity under substantially common control, ownership, or management as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

(5) The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation

facilities, medical marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

(7) Within one hundred eighty days of December 6, 2018, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within two hundred ten days of December 6, 2018, the department shall begin accepting applications for such identification cards.

(8) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana cultivation facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five medical marijuana dispensary facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana-infused products manufacturing facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(11) Any applicant for a license authorized by this section may prefile their application fee with the department beginning 30 days after December 6, 2018.

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to [six flowering marijuana plants] <u>fifty square feet of canopy space</u> for the [exclusive use] <u>benefit</u> of that qualifying patient. The card shall

be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of [one hundred] twenty-five dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. In no case shall any qualifying patient cultivate more than fifty square feet of canopy space regardless of the number of primary caregivers assigned to said qualifying patient.

(13) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty-day period, provided that limit is not less than four ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the department.

(14) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty-day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. In no case shall the total amount of medical marijuana attributed to a single qualifying patient in the possession of multiple primary caregivers exceed the limit set by the department. Qualifying patients cultivating marijuana for medical use may possess up to a [ninety-day] one year supply, so long as the supply remains secured on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by [imprisonment of up to one year and] a fine of up to two thousand dollars.

[(15) The department may restrict the aggregate number of licenses granted for medical marijuana cultivation facilities, provided, however, that the number may not be limited to fewer than one license per every one hundred thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department may restrict the aggregate number of licenses granted for marijuana-infused products manufacturing facilities, provided, however, that the number may not be limited to fewer than one license per every seventy thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department may restrict the aggregate number of licenses granted for medical marijuana dispensary facilities, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018. Future changes to the boundaries of or the number of congressional districts shall have no impact.]

(18) The department shall begin accepting license and certification applications for medical marijuana dispensary facilities, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after December 6, 2018. Applications for licenses and certifications under this section shall be approved or denied by the department no later than one hundred fifty days after their submission. If the department fails to carry out its nondiscretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(19) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the department. The department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor

index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the department fails to deny and fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their qualifying patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(20) Primary caregivers under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(21) All marijuana for medical use sold in Missouri shall be cultivated in a licensed medical marijuana cultivation facility located in Missouri.

(22) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a medical marijuana-infused products manufacturing facility.

(23) The denial of a license, license renewal, or identification card by the department shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the department shall be subject to judicial review as provided by law.

(24) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(25) The department shall not have the authority to apply or enforce any rule or regulation that would impose an undue burden on any one or more licensees or certificate holders, any qualifying patients, or act to undermine the purposes of this section.

4. Taxation and Reporting.

(1) A tax is levied upon the retail sale of marijuana for medical use sold at medical marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and paid to the department of revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri veterans' health and care fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund", which shall consist of taxes and fees collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount not to exceed twenty percent of net deposits which is necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies

necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri veterans commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri service officer's program, and other services for veterans approved by the commission, including, but not limited to, health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri veterans commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from, and in addition to, any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

(6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

5. Additional Patient, Physician, Caregiver and Provider Protections.

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the department, and transportation of marijuana from a medical marijuana dispensary facility to the qualifying patient's residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid qualifying patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri state board of registration for the healing arts, or its successor agency, for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider, including individuals licensed under chapter 335 or 337 or their successor statutes, shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any

accreditation or licensing board or commission for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A medical marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by nonemancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation [of up to six flowering marijuana plants per patient] in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

6. Legislation.

Nothing in this section shall limit the general assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section.

7. Additional Provisions.

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or entity with a transportation certification shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a nonviolent crime [for which he or she was not incarcerated and that is more than five years old]; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The department may consult with and rely on the records, advice and recommendations of the attorney general and the department of public safety, or their successor entities, in applying this subdivision.

(3) All medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility licenses, entities with medical marijuana testing facility certifications, and entities with transportation certifications shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) No medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including loss of license.

(5) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana", or a "Marijuana-Infused Product". Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty.

(6) No individual shall serve as the primary caregiver for more than [three] <u>ten</u> qualifying patients.

(7) No qualifying patient shall consume marijuana for medical use in a public place, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(8) No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and, if applicable, loss of their identification card, certificate, or license for up to one year.

(9) All qualifying patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. [Two qualifying] Qualifying patients and care givers, who [both] hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. No shared facility may contain more than five thousand square feet of canopy space without obtaining a medical marijuana cultivation facility license. [No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.]

(10) No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

(11) Unless allowed by the local government, no new medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality.

(12) Unless superseded by federal law or an amendment to this Constitution, a physician shall not certify a qualifying condition for a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic, or in another commonly used format. A qualifying patient must obtain a new physician certification at least annually.

(13) A physician shall not issue a certification for the medical use of marijuana for a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. [Only a parent or guardian may serve as a primary caregiver for a nonemancipated qualifying patient under the age of eighteen.] At least one of the primary caregivers for a nonemancipated qualifying patient under the age of eighteen must be a parent or legal guardian. Only the qualifying patient's [parent or guardian] primary caregiver shall purchase or possess medical marijuana for a nonemancipated qualifying patient under the age of eighteen. A [parent or guardian] primary caregiver shall supervise the administration of medical marijuana to a nonemancipated qualifying patient under the age of eighteen.

(14) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(15) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

8. Severability.

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

[9. Effective Date.

The provisions of this section shall become effective on December 6, 2018.]

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-048)

Subject

Initiative petition from Eric McSwain regarding a proposed constitutional amendment to Article XIV of the Constitution of Missouri. (Received July 15, 2021)

Date

August 4, 2021

Description

This proposal would amend Article XIV of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University, Missouri Veterans**

Commission, Missouri Office of Prosecution Services, the **Kansas City Board of Police Commissioners,** and the **Metropolitan Police Department - City of St. Louis.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this petition should not have a fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated:

The initiative petition (IP) makes changes to Section 1 of Article XIV. Some changes would require revising existing rules. Their department anticipates being able to absorb these costs. However, until the fiscal year (FY) 2023 budget is final, their department cannot identify specific funding sources.

The proposed legislation could result in 166 additional full time employees (FTE). 83 FTE will be located in Jefferson City for a total annual cost of $343,620 ($18 x 230 sq. ft. x 83).

The proposed legislation could create new small business opportunities in addition to costs associated with a new business in order to be in compliance with the legislation.

The reduction in state revenue will be $2,780,211 in SFY 2023 and $3,211,488 in SFY 2024.

Changes to Section 1 of Article XIV that would have fiscal impact on their department include:

Revenues

Section 1.3(12) reduces the annual fee for a patient cultivation card from $100 to $25. All other fees would remain the same.

FY 23: $35,075,151 (2,479 facility licenses annual fees) + $1,225,767 (389 facility licenses renewal fees) + $679,141 (184 new application fees) + $4,457,163 (173,432 patient, caregiver, and patient cultivation) + $708,897 (4,407 agent ID applications and change requests) + $8,305,978 (Revenues from Sales Tax)= $50,452,098.

FY 24*: $27,005,174 (1,909 facility licenses annual fees) + $124,233 (24 facility licenses renewal fees) + $181,173 (49 new application fees) + $5,148,589 (200,336 patient, caregiver, and patient cultivation) + $192,049 (1,190 agent ID applications and change requests) + $8,305,978 (Revenues from Sales Tax) = $40,957,197.

*FY24 facility revenues are reduced to reflect revocation of 619 facilities during Year 2.

The Division of Regulation and Licensure, Section for Medical Marijuana Regulation (DRL SMMR) does not anticipate an increase in medical marijuana sales based on an increase in medical marijuana facilities as the patient population would not increase because of this legislation; therefore, DRL SMMR does not anticipate an increase in tax revenue. There is a strong possibility that tax revenue would in fact decrease since oversupply would cause prices to go down. There is no state comparable to Missouri in both its qualifying conditions and the unlimited licensure proposed in this IP.

The new projected revenues related to patient cultivation applications are $926,737 ($3,706,948 less $2,780,211) for FY2023 and $1,070,496 ($4,281,984 less $3,211,488) for FY2024.

Section 1.3(15) – (17) are deleted, removing DHSS' authority to set limits on the number of licenses granted for medical marijuana facilities. This means their department would be required to license any entity that meets minimum standards for licensure, without regard for demand/supply considerations.

Based on an analysis performed in spring of 2021, their department estimates the fiscal impact of unlimited licensing in Missouri to be:

Expenses

Nine Compliance Inspection Supervisors with an annual salary of $68,500; supervision of approximately ten Compliance Inspectors each.

Eighty-three Compliance Inspectors with an annual salary of $55,105; eighty would be needed to maintain the inspection workload of twenty-seven facilities per compliance inspector and three will solely be dedicated to leading facility compliance investigations and revocation actions. The Compliance Inspectors are assumed telecommuters and are expected to travel extensively; it is assumed their travel costs will be $10,103 annually.

Four Regulatory Auditor Supervisors with an annual salary of $66,000; supervision of approximately ten Senior Regulatory Auditors.

Forty Senior Regulatory Auditors with an annual salary of $47,000; process edible product pre-approval applications, licensing review, and investigating business changes and complaints related to minimum licensure requirements.

Three Associate Research/Data Analysts with an annual salary of $47,000; track and trace compliance audits and investigations.

One Public Health Program Supervisor with an annual salary of $65,000; supervision of Public Health Program Associates.

Nine Public Health Program Associates with an annual salary of $38,000; process agent ID and patient applications, customer service telephone calls and email requests.

Eight Special Assistant/Professionals with an annual salary of $55,000; budgetary oversight, public communication via the webpage and educational materials, internal and external training, contract management, special project coordination, reports, and strategic planning.

Nine Lead Administrative Support Assistants with an annual salary of $41,000; provide support for the additional staff.

A new workflow management system solution will be required to process, document, and manage compliance and enforcement actions related to the licensees. This type of system is comparable in complexity and availability to one of the systems already utilized via contract for the medical marijuana program. Using that system as a basis for projecting, the new workflow management system would cause a yearly expense of $548,427.

With these changes, total projected operating costs for FY 23 would be $29,989,268 and for FY 24 is $30,043,030. Costs to implement the current IP would be $805,381 in initial costs and $16,055,740 in ongoing annual costs by FY 24.

Section 1.4(2)(a) reduces the portion of the Veterans' Health and Care Fund available to DHSS for administering the medical marijuana program from "an amount necessary for the department to carry out this section" to "an amount not to exceed twenty percent of net deposits which is necessary for the department to carry out this section."

Conclusion

The IP would result in operating costs exceeding funds available (per Section 1.4(2)(a) discussed above) from the Veteran's Health and Care Fund as follows:

Total revenues for the Fund in FY2023 are estimated to be $50,452,098. Twenty percent of total revenues is estimated at $10,090,420. With the changes plus all other operating cost they already have, the medical marijuana program's operating costs would be

$29,989,268. This would create a budget shortfall of approximately $19,807,848 for FY2023, which would require GR pickup to continue the operations of the program.

Total revenues for the Fund in FY2024 is estimated to be $40,957,197. Twenty percent of that is $8,191,439. With the changes, the medical marijuana program's operating costs are $30,043,030. This would create a budget shortfall of approximately $21,851,591 for FY2024 and would require GR pickup to continue the operations of the program.

Their department would seek appropriation from General Revenue to cover the operating costs not covered by the Veteran's Health and Care Fund.

They also provided the following information:

ATTACHMENT A

	FY 2023 Fee Schedule			FY 2023 Number of Projected Licenses				FY 2023 Projected Revenues							
Type	New Application Fee	Annual Fee	Renewal Fee	Number of Licenses (Renewal)	Number of Licenses Awarded	Number of New Licenses Awarded	Number of Licenses Revoked	Facility License Annual Fees (Licenses Awarded * Annual Fee)	Facility License Renewal Fees (Licenses * Renewal Fee)	New Application Fees (New Licenses * New Application Fee)	Patient, Caregiver, Patient Cultivation	Agent ID Applications and Change Requests	Revenues from Sales Tax	Total Projected Revenues	20% Operating Cost
Cultivation Facility	5,176.38	25,881.90	5,176.38	60	629	47	-	16,279,715	310,583	243,290				16,833,588	
Dispensary Facility	3,105.83	10,352.76	3,105.83	192	1,317	98	-	13,634,585	596,319	304,371				14,535,276	
Manufacturing Facility	3,105.83	10,352.76	3,105.83	86	464	34	-	4,803,681	267,101	105,598				5,176,380	
Laboratory Testing Facility	5,176.38	5,176.38	5,176.38	10	18	1	-	93,175	51,764	5,176				150,115	
Seed to Sale Facility	5,176.38	5,176.38	-	17	21	2	-	108,704	-	10,353				119,057	
Transportation Facility	5,176.35	5,176.38	5,176.38	24	30	2	-	155,291		10,353				165,644	
Agent ID	77.65	-	77.65	-	4,223	-	N/A					327,916		327,916	
Change Requests	2,070.55	-	2,070.55	-	184	-	N/A					380,981		380,981	
Patient	25.89	-	25.89	132,391	N/A	N/A	N/A				3,427,603			3,427,603	
Caregiver	25.89	-	25.89	3,972	N/A	N/A	N/A				102,835			102,835	
Patient Cultivator	25.00	-	25.00	37,069	N/A	N/A	N/A				926,725			926,725	
Projected Sales Tax Revenue													8,305,978	8,305,978	
Total				173,821	6,886	184	-	35,075,151	1,225,767	679,141	4,457,163	708,897	8,305,978	50,452,098	10,090,419.54

	FY 2024 Fee Schedule			FY 2024 Number of Projected Licenses				FY 2024 Projected Revenues							
Type	New Application Fee	Annual Fee	Renewal Fee	Number of Licenses (Renewal)	Number of Licenses Awarded	Number of New Licenses Awarded	Number of Licenses Revoked	Facility License Annual Fees (Licenses Awarded * Annual Fee)	Facility License Renewal Fees (Licenses * Renewal Fee)	New Application Fees (New Licenses * New Application Fee)	Patient, Caregiver, Patient Cultivation	Agent ID Applications and Change Requests	Revenues from Sales Tax	Total Projected Revenues	20% Operating Cost
Cultivation Facility	5,176.38	25,881.90	5,176.38	-	484	13	157	12,526,840	-	67,293				12,594,133	
Dispensary Facility	3,105.83	10,352.76	3,105.83	-	1,014	26	329	10,497,699	-	80,752				10,578,450	
Manufacturing Facility	3,105.83	10,352.76	3,105.83	-	358	9	116	3,706,288	-	27,952				3,734,241	
Laboratory Testing Facility	5,176.38	5,176.38	5,176.38	-	14	-	5	72,469	-	-				72,469	
Seed to Sale Facility	5,176.38	5,176.38	-	-	16	-	5	82,822	-	-				82,822	
Transportation Facility	5,176.35	5,176.38	5,176.38	24	23	1	7	119,057	124,233	5,176				248,466	
Agent ID	77.65	-	77.65	1,140	-		N/A	-	-			88,521		88,521	
Change Requests	2,070.55	-	2,070.55	50	-		N/A	-				103,528		103,528	
Patient	25.89	-	25.89	152,928	N/A	N/A	N/A				3,959,306			3,959,306	
Caregiver	25.89	-	25.89	4,588	N/A	N/A	N/A				118,783			118,783	
Patient Cultivator	25.00	-	25.00	42,820	N/A	N/A	N/A				1,070,500			1,070,500	
Projected Sales Tax Revenue													8,305,978	8,305,978	
Total				201,550	1,909	49	619	27,005,174	124,233	181,173	5,148,589	192,049	8,305,978	40,957,197	8,191,439.33

FISCAL ESTIMATE WORKSHEET **FISCAL NOTE: 22-048IP**

Attachment B **BILL NO:**

VHC Fund

FUND COSTS BY CATEGORY

Expenditure by Category / Personnel by Position	FTEs	Annual Salary	FY 2022	FY 2023	FY 2024
Compliance Inspection Supervisors	9	$68,500	$0	$622,665	$628,892
Compliance Inspection	83	$55,105	$0	$4,619,452	$4,665,647
Regulatory Auditor Supervisor	4	$66,000	$0	$266,640	$269,306
Senior Regulatory Auditors	40	$47,000	$0	$1,898,800	$1,917,788
Associate Research/Data Analyst	3	$47,000	$0	$142,410	$143,834
Public Health Program Supervisor	1	$65,000	$0	$65,650	$66,307
Public Health Program Associates	9	$38,000	$0	$345,420	$348,874
Special Assistant Professional	8	$55,000	$0	$444,400	$448,844
Lead Administrative Support Assistant	9	$41,000	$0	$372,690	$376,417
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**166**		**0**	**166**	**166**
Total Salaries			**$0**	**$8,778,127**	**$8,865,908**
Fringe Benefits			**$0**	**$4,944,658**	**$4,974,284**

FISCAL ESTIMATE WORKSHEET **22-048IP**

0

VHC Fund

FUND COSTS BY CATEGORY

Expenditure by Category / Equipment by Item	BOBC	Units	Unit Cost	FY 2022	FY 2023	FY 2024
Desk Chair	580	166	$596	$0	$98,936	
Side Chair	580	166	$314	$0	$52,124	
Desk	580	97	$601	$0	$58,297	
File Cabinet	580	166	$599	$0	$99,434	
Calculator	190	166	$20	$0	$3,320	
Cubicle	580	69	$6,800	$0	$469,200	
Telephone	340	166	$145	$0	$24,070	
TOTAL EQUIPMENT				$0	$805,381	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Travel	140	83	$10,103	$0	$859,513	$881,001
Travel	140	53	$5,103	$0	$277,220	$284,151
Fleet	560	166	$81	$0	$13,782	$14,127
Supplies	190	166	$238	$0	$40,496	$41,508
Telecommunications	340	166	$294	$0	$50,024	$51,275
Maintenance and Repair	430	166	$36	$0	$6,125	$6,279
Workflow Mgmt Systm		1	$548,427	$0	$548,427	$576,191
Vet's Commission Transfr		1	$0	$0	$0	$0
Projected Current Operation Cost		1	$13,313,304		$13,313,304	$13,987,290
RENT:						
St. Louis/Metro ($21)	680		$4,830	$0	$0	$0
Large City ($18)	680	83	$4,140	$0	$352,211	$361,016
Out State ($14)	680		$3,220	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$15,461,102	$16,202,838
TOTAL EQUIPMENT AND EXPENSE				$0	$16,266,483	$16,202,838
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET **22-048IP**

0

VHC Fund

SUMMARY OF FUND COSTS

I. Fund Costs by Category	**FY 2022**	**FY 2023**	**FY 2024**
Salaries	$0	$8,778,127	$8,865,908
Fringe Benefits	$0	$4,944,658	$4,974,284
Equipment and Expense	$0	$16,266,483	$16,202,838
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$29,989,268**	**$30,043,030**
II. Fund Revenue Sources			
Taxes	$0	$0	$0
Fines	$0	$0	$0
Administrative Sanctions	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND REVENUE - ALL SOURCES	**$0**	**$0**	**$0**
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**($29,989,268)**	**($30,043,030)**

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. Their department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article XIV.

Officials from the **Department of Revenue** indicated:

This is an initiative petition that would go to the vote of the people at the November 2022 general election. If this is not adopted by the people, this would not have a fiscal impact.

Should this be adopted at the November 2022 election, by the time certification of the election occurs, it is assumed this constitutional amendment would have a January 1, 2023 effective date.

Section A
This proposal states that this constitutional amendment is revising the existing Article XIV regarding medical marijuana use.

Section 1 Medical Marijuana Laws
The existing medical marijuana laws are modified to change the definition of marijuana and to expand the number of primary caregivers a person may have. Additionally it changes the requirements that allow medical marijuana patients to cultivate their own marijuana plants by increasing the number of plants they can cultivate. By increasing the number of plants that can be grown by an individual, it may reduce the amount of medical marijuana sold at a licensed facility.

Currently the number of medical marijuana facilities that can be licensed is limited. This proposal removes those limits. Removing the limits and increasing the number of facilities could potentially increase the amount of medical marijuana tax revenue collected.

Their department is unable to determine if these changes will positively or negatively impact the amount of tax collected under the medical marijuana laws.

For informational purposes, medical marijuana has a tax of 8.225% that is distributed as:

Missouri Veterans Health Care Fund (4%)
General Revenue (3%)
School Districts Trust Fund (1%)
Conservation Commission 0.125%)
Parks, Soil & Water (0.1%)

Officials from the **Department of Public Safety - Office of Director** indicated the Missouri Veterans Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office. They indicated there is no impact for the Department of Public Safety, Director's Office.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal establishes new constitutional regulations relating to the sale of cannabis and should not fiscally impact their office.

Officials from the **House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition should not have a fiscal impact to their department/Missouri Highway and Transportation Commission. It does not mention expungement of marijuana related convictions.

Officials from the **Office of Administration** indicated Article XIV, Section 1.3(1)(h) and (15-17) are removed which would eliminate the Department of Heath of Senior Services (DHSS)-imposed facility license caps likely resulting in an increase in total state revenue (TSR) from additional facilities applying for licensure. Article XIV, Section 1.3(12) would reduce the annual cultivation fee from $100 per year to $25 per year. Article XIV, Section 1.4(2)(a) would limit the amount of funds to be kept by the Department of Health and Senior Services (DHSS) for the administration of the medical marijuana program to 20% of net deposits into the Veterans Health and Care Fund. The language is unclear as to what constitutes net deposits. Budget and Planning (B&P) defers to DHSS for an impact on these provisions.

B&P notes that medical marijuana facilities are charged the following fees under Article XIV, however the annual fees have been increased by DHSS since inception as permitted:

- medical marijuana cultivation facility: $5,000 application fee and $25,000 annual fee ($25,933.05 for FY 22)
- medical marijuana dispensary facility: $3,000 application fee and $10,000 annual fee ($10,373.22 for FY 22)

- medical marijuana infused-products manufacturing facility: $3,000 application fee and $10,000 annual fee ($10,373.22 for FY 22).

Article XIV Section 1.3(2)(h) requires that all medical marijuana employees, owners, officers, and other individuals affiliated with the business to undergo a fingerprint-based criminal background check. The removal of the license caps on medical marijuana facilities may increase the number of individuals needing these checks. The Missouri State Highway Patrol (MSHP) Criminal Justice Information Services (CJIS) Division processes all state and federal fingerprint background checks. The CJIS has the following fee structure for background checks:

State fee:	$20.00
Vendor Fee:	$8.50
FBI fee:	$13.25
Total fees:	$41.75

The state retains the $20 state fee and $2 of the FBI fee ($22 total retained by the state). All fees collected will be deposited in the MSHP Criminal Records System Fund. MSHP verified that over 90% of background checks are conducted using third party vendor, IDEMIA, who charges the applicant an $8.50 fee which is kept by IDEMIA. The applicant pays the full fee of $41.75 to the vendor and MSHP then collects the full state and FBI fees ($33.25) from the vendor each month. The FBI bills MSHP monthly, and MSHP pays the FBI their portion of the FBI fee out of the MSHP Criminal Records System Fund.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot

measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated there is a tax and a variety of fees imposed in this petition. Once in operation, marijuana businesses have had difficulties obtaining and maintaining bank accounts due Federal law and regulations. Their office and the Department of Revenue have explored options to handle large amounts of cash from licensed marijuana businesses as the Department of Revenue may see many of these taxes paid in cash. Changes in security measures and collection points may be needed as the Department of Revenue, the Department of Health and Senior Services, and the Department of Labor and Industrial Relations do not currently receive large amounts of cash.

The changes in this initiative petition may increase the potential amount of receipts in cash.

They are unable to determine the fiscal impact to their office.

Officials from **Clay County** indicated they estimate no fiscal impact as a result of this initiative petition.

Officials from **Greene County** indicated there is anticipated costs to the County of Greene for this initiative petition. To help better fully understand the fiscal impact would require a very detailed study to give the best opportunity to understand the impact to law enforcement, prosecutors, and the circuit courts within the proposed changes of this initiative petition if the statute is not followed by the qualifying patient growing more than the allowed 50 square feet of canopy growing space.

Officials from **St. Louis County** indicated the fiscal impact, if any, is too remote or indirect to calculate.

Officials from the **City of Kansas City** indicated this petition would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **Missouri Veterans Commission** indicated the following:

Michael L. Parson
Governor

Paul Kirchhoff
Executive Director

MISSOURI VETERANS COMMISSION

205 Jefferson Street, P.O. Drawer 147, Jefferson City, MO 65102-0147
Telephone: (573) 751-3779 www.mvc.dps.mo.gov Fax: (573) 751-6836

July 15, 2021

The Honorable John R. Ashcroft
Secretary of State
600 W. Main Street
Jefferson City, MO 65101

Dear Secretary of State Ashcroft,

Initiative Petition 2022-048 (hereinafter, the Petition) will have a disastrous fiscal impact upon the Missouri Veterans Commission. Under the existing medical marijuana program (Article XIV of the Missouri Constitution), we anticipate receiving $2,529,753 in FY22 and $2,929,271 in FY23 from the tax revenues generated from the retail sales of medical marijuana. The Petition makes significant changes to that program which would adversely impact the Commission.

Specifically, the existing medical marijuana program establishes a 4% tax on all retail sales of medical marijuana and allocates to the Commission all of those proceeds minus 5% to the Department of Revenue and an amount to the Department of Health and Senior Services necessary to defray their costs in regulating the program. The Petition makes no changes to this arrangement. However, the Petition proposes a significant change to paragraph 3(12) to dramtically expand the rights of patients to cultivate their own marijuana which is not subject to taxation. Therefore, should the Petition become law, we anticipate a significant decrease in tax revenues allocated to the Commission through the Veterans Health and Care Fund.

In closing, Initiative Petition 2022-048 will adversely impact the ability of the Missouri Veterans Commission to serve the veterans of Missouri for the reasons set forth above. If I can be of any further assistance on this issue, please contact me at (573) 522-4224 at your convenience.

Sincerely,

Scotty L. Allen
General Counsel
Missouri Veterans Commission

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER
services provided on a nondiscriminatory basis

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University, Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** and the **Metropolitan Police Department - City of St. Louis.**

Fiscal Note Summary

State governmental entities estimate initial costs of $800,000, ongoing costs of $16 million annually by 2024, and an unknown reduction in revenues that could be significant totaling at least $3 million annually by 2024. Local governments estimate no costs or savings.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 15, 2021

RECEIVED
JUL 15 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Articles XIV and XIX, version 2 (2022-047)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on July 15, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-047

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 JUL 16 AM 9:12

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Signature of Notary _____

Address of Notary _____

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article XIV of the Constitution is revised by amending Section 1, and adopting one new section to be known as Article XIX, Section 2 to read as follows:

Section 1. 1. Purposes.

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the [limited] legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

2. Definitions.

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the department of health and senior services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" or "marihuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp [containing a cropwide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis] <u>as defined by federal law</u>, or commodities or products manufactured from industrial hemp <u>as defined by federal law</u>.

(6) "Marijuana-infused products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(7) "Medical marijuana cultivation facility" means a facility licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

(8) "Medical marijuana dispensary facility" means a facility licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

(9) "Medical marijuana-infused products manufacturing facility" means a facility licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

(10) "Medical marijuana testing facility" means a facility certified by the department to acquire, test, certify, and transport marijuana.

(11) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(12) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(13) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.

(14) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department. Any health care provider licensed under the laws of the state may also serve as a primary caregiver. A qualifying patient may have up to three primary caregivers.

(15) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory

bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(16) "Qualifying patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

3. Creating Patient Access to Medical Marijuana.

(1) In carrying out the implementation of this section, the department shall have the authority to:

(a) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and for the enforcement of this section so long as patient access is not restricted unreasonably and such rules are reasonably necessary for patient safety or to restrict access to only licensees and qualifying patients.

(c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver to ensure that no medical marijuana grown by a medical marijuana cultivation facility or manufactured by a medical marijuana-infused products manufacturing facility is sold or otherwise transferred except by a medical marijuana dispensary facility. The department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities which demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another entity with a transportation certification. The department shall develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation of marijuana. Any entity licensed or certified pursuant to this section shall be allowed to transport cannabis.

(f) The department may charge a fee not to exceed $5,000 for any certification issued pursuant to this section.

(g) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the department under this section;

[(h) Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section, which scoring shall be limited to an analysis of the following:

(i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers;

(ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income qualifying patients;

(iii) site security;

(iv) experience in a legal cannabis market;

(v) in the case of medical marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience;

(vi) the potential for positive economic impact in the site community;

(vii) in the case of medical marijuana cultivation facilities, capacity or experience with agriculture, horticulture, and health care;

(viii) in the case of medical marijuana dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;

(ix) in the case of medical marijuana-infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and

(x) maintaining competitiveness in the marijuana for medical use marketplace.

In ranking applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise regarding these factors. The department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by qualifying patients.]

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the medical marijuana dispensary facility, product display and examination by the qualifying patient and/or primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed or certified pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, [shall] <u>may</u> forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a

fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530;

(i) Security requirements for any premises licensed or certified pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a medical marijuana dispensary facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. The department shall not require any medical marijuana or medical marijuana-infused products to be tested more than once prior to sale.

(4) The department shall issue rules or emergency rules to provide for the certification of and standards for medical marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as medical marijuana testing facilities. No medical marijuana testing facility shall be owned by an entity under substantially common control, ownership, or management as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

(5) The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation

facilities, medical marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

(7) Within one hundred eighty days of December 6, 2018, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within two hundred ten days of December 6, 2018, the department shall begin accepting applications for such identification cards.

(8) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana cultivation facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five medical marijuana dispensary facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana-infused products manufacturing facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(11) Any applicant for a license authorized by this section may prefile their application fee with the department beginning 30 days after December 6, 2018.

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to [six flowering marijuana plants] <u>fifty square feet of canopy space</u> for the [exclusive use] <u>benefit</u> of that qualifying patient. The card shall

be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of [one hundred] twenty-five dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. In no case shall any qualifying patient cultivate more than fifty square feet of canopy space regardless of the number of primary caregivers assigned to said qualifying patient.

(13) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty-day period, provided that limit is not less than four ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the department.

(14) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty-day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. In no case shall the total amount of medical marijuana attributed to a single qualifying patient in the possession of multiple primary caregivers exceed the limit set by the department. Qualifying patients cultivating marijuana for medical use may possess up to a [ninety-day] one year supply, so long as the supply remains secured on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by [imprisonment of up to one year and] a fine of up to two thousand dollars.

[(15) The department may restrict the aggregate number of licenses granted for medical marijuana cultivation facilities, provided, however, that the number may not be limited to fewer than one license per every one hundred thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department may restrict the aggregate number of licenses granted for marijuana-infused products manufacturing facilities, provided, however, that the number may not be limited to fewer than one license per every seventy thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department may restrict the aggregate number of licenses granted for medical marijuana dispensary facilities, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018. Future changes to the boundaries of or the number of congressional districts shall have no impact.]

(18) The department shall begin accepting license and certification applications for medical marijuana dispensary facilities, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after December 6, 2018. Applications for licenses and certifications under this section shall be approved or denied by the department no later than one hundred fifty days after their submission. If the department fails to carry out its nondiscretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(19) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the department. The department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor

index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the department fails to deny and fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their qualifying patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(20) Primary caregivers under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(21) All marijuana for medical use sold in Missouri shall be cultivated in a licensed medical marijuana cultivation facility located in Missouri.

(22) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a medical marijuana-infused products manufacturing facility.

(23) The denial of a license, license renewal, or identification card by the department shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the department shall be subject to judicial review as provided by law.

(24) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(25) The department shall not have the authority to apply or enforce any rule or regulation that would impose an undue burden on any one or more licensees or certificate holders, any qualifying patients, or act to undermine the purposes of this section.

4. Taxation and Reporting.

(1) A tax is levied upon the retail sale of marijuana for medical use sold at medical marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and paid to the department of revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri veterans' health and care fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund", which shall consist of taxes and fees collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount not to exceed twenty percent of net deposits which is necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies

necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri veterans commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri service officer's program, and other services for veterans approved by the commission, including, but not limited to, health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri veterans commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from, and in addition to, any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

(6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

5. Additional Patient, Physician, Caregiver and Provider Protections.

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the department, and transportation of marijuana from a medical marijuana dispensary facility to the qualifying patient's residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid qualifying patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri state board of registration for the healing arts, or its successor agency, for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider, including individuals licensed under chapter 335 or 337 or their successor statutes, shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any

accreditation or licensing board or commission for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A medical marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by nonemancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation [of up to six flowering marijuana plants per patient] in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

6. Legislation.

Nothing in this section shall limit the general assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section.

7. Additional Provisions.

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or entity with a transportation certification shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a nonviolent crime [for which he or she was not incarcerated and that is more than five years old]; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The department may consult with and rely on the records, advice and recommendations of the attorney general and the department of public safety, or their successor entities, in applying this subdivision.

(3) All medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility licenses, entities with medical marijuana testing facility certifications, and entities with transportation certifications shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) No medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including loss of license.

(5) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana", or a "Marijuana-Infused Product". Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty.

(6) No individual shall serve as the primary caregiver for more than [three] <u>ten</u> qualifying patients.

(7) No qualifying patient shall consume marijuana for medical use in a public place, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(8) No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and, if applicable, loss of their identification card, certificate, or license for up to one year.

(9) All qualifying patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. [Two qualifying] Qualifying patients and care givers, who [both] hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. No shared facility may contain more than five thousand square feet of canopy space without obtaining a medical marijuana cultivation facility license. [No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.]

(10) No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

(11) Unless allowed by the local government, no new medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality.

(12) Unless superseded by federal law or an amendment to this Constitution, a physician shall not certify a qualifying condition for a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic, or in another commonly used format. A qualifying patient must obtain a new physician certification at least annually.

(13) A physician shall not issue a certification for the medical use of marijuana for a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. [Only a parent or guardian may serve as a primary caregiver for a nonemancipated qualifying patient under the age of eighteen.] At least one of the primary caregivers for a nonemancipated qualifying patient under the age of eighteen must be a parent or legal guardian. Only the qualifying patient's [parent or guardian] primary caregiver shall purchase or possess medical marijuana for a nonemancipated qualifying patient under the age of eighteen. A [parent or guardian] primary caregiver shall supervise the administration of medical marijuana to a nonemancipated qualifying patient under the age of eighteen.

(14) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(15) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

8. Severability.

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

[9. Effective Date.

The provisions of this section shall become effective on December 6, 2018.]

Section 2.

1. Purpose

This section is intended to permit the safe and legal use of cannabis by adults over the age of twenty-one and to reasonably regulate the cultivation, processing, manufacturing, and distribution of cannabis. The people of Missouri have a right to enjoy the benefits of their labor free from unreasonable regulation. This section creates a legal, regulated, and taxed cannabis industry so Missouri businesses can participate in the growing market, and the state can reduce the burden on the budget and criminal justice system caused by the prosecution and incarceration of non-violent cannabis possession and distribution.

This section is not intended to supplant the medical marijuana market. The medical marijuana market is a necessary and important part of many patients' treatment plans. Care guided by a health care provider is important when cannabis is used in an intensive and therapeutic manner.

This section is intended to make only those changes to Missouri laws that are necessary to protect consumers and businesses in the cannabis industry from civil and criminal penalties; and to allow for the responsible consumption of cannabis, combat illegal underage consumption of cannabis, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed cannabis cultivators, manufacturers, transporters, hospitality establishments, and retailers. This section is not intended to allow for the unregulated public use of cannabis; the operation of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; the use of cannabis in the workplace; or the use of cannabis by persons under twenty-one years of age.

2. Definitions.

(1) "Adult use" means the production, possession, delivery, distribution, transportation, or ingestion of cannabis or a cannabis-infused product, or drug paraphernalia used to ingest cannabis or a cannabis-infused product, by a person over the age of twenty-one for purposes other than those provided for in Article XIV Section 1.

(2) "Cannabis" means *Cannabis indica, Cannabis sativa, and Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute cannabis, hemp, or marijuana. "Cannabis" includes resin extracted from the plant and cannabis-infused products. "Cannabis" does not include industrial hemp as defined by Federal law or commodities or products manufactured from industrial hemp as defined by Federal law. "Cannabis" does not include parts of the plant that do not contain tetrahydrocannabinol (THC) or the soil or substrate in which the plants were grown.

(3) "Cannabis-infused products" means products that are infused with cannabis or an extract thereof and are intended for ingestion other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(4) "Cannabis cultivation facility" means a facility licensed by the division to acquire, cultivate, process, store, package, transport, and sell cannabis to or from a cannabis retail facility, cannabis testing facility, cannabis manufacturing facility, or another cannabis cultivation facility.

(5) “Cannabis hospitality facility” means a facility certified by the division to permit the consumption of cannabis by consumers or qualifying patients on the premises.

(6) "Cannabis manufacturing facility" means a facility licensed by the division to acquire, process, manufacture, produce, store, package, transport, and sell cannabis and paraphernalia used to ingest cannabis as provided for in this section to or from a cannabis retail facility, cannabis testing facility, cannabis cultivation facility, or another cannabis manufacturing facility.

(7) "Cannabis retail facility" means a facility licensed by the division to acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to a consumer, and acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to or from another cannabis retail facility, a cannabis testing facility, cannabis manufacturing facility, or a cannabis cultivation facility.

(8) "Cannabis testing facility" means a facility certified by the division or the division of health and senior services to acquire, test, certify, and transport cannabis.

(9) “Child-Resistant Packaging” means resealable packaging that is opaque and is designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use.

(10) “Consumer” means a natural person over the age of twenty-one.

(11) “Delivery” means the delivery of cannabis from a cannabis retail facility to a consumer.

(12) “Disqualifying felony” means any dangerous felony as defined by the laws of this state, but shall not include any felony which is based on the possession or distribution of cannabis unless such act included the distribution of cannabis to a person under the age of seventeen and more than two years younger than the person being charged.

(13) “Division” means the division of alcohol and tobacco control within the department of public safety, or its successor division.

(14) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(15) "Flowering plant" means a cannabis plant from the time it shows physical signs of flowering or budding out of the nodes of the stem through harvest.

(16) “Historically Marginalized Population” means African American and Hispanic populations.

(17) “Ingest” means any method of introducing cannabis or its chemical components into the human body including but not limited to:

(a) Ingestion of capsules, teas, oils, and other cannabis-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories; or

(e) Consuming cannabis-infused food products.

(18) “Local Government” means a county, township, city, town, village, or municipality.

(19) “Transportation” means the movement of cannabis between licensed facilities. “Transportation” includes the delivery of cannabis to a cannabis retail facility but does not include delivery of cannabis directly to a consumer.

3. Regulation

In carrying out the implementation of this section, the division shall have the authority to:

(1) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, transportation, delivery, and hospitality of cannabis for adult use in accordance with this section; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(2) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, sale, transportation, and delivery of cannabis for adult use, and for the enforcement of this section, so long as access is not restricted unreasonably and such rules are reasonably necessary for consumer safety or to restrict access to only persons over twenty-one years of age. Such rules may include provisions related to:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the division;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary;

(e) Creation of a range of administrative penalties for use by the division;

(f) Prohibition of misrepresentation and unfair practices;

(g) Regulation of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the cannabis retail facility, product display and examination by a consumer, listings in business directories including online directories and phone books, listings in cannabis-related publications and websites, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of identification cards for entities licensed or certified pursuant to this section, including a fingerprint-based criminal background check for owners, officers, and managers of such entities.

(i) Develop such forms, certificates, licenses, and applications, which may be provided in electronic or digital format, as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(j) Requirements for any entity licensed or certified by the division to create and follow security policies that prevent access to cannabis by any person under the age of twenty-one; prevent entry by any person not authorized by the division or the license holder into areas where cannabis is being cultivated, manufactured, or stored; and provide immediate notice to the entity or their designated agent of any attempt by a person to gain unauthorized or illegal access to cannabis or any area where cannabis is being cultivated, manufactured, or stored;

(k) Regulation of the storage of, warehouses for, and transportation of cannabis for adult use;

(l) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(m) The specification of acceptable forms of identification that a cannabis retail facility may accept when verifying a sale;

(n) Labeling and packaging standards that require child-resistant packaging provided that the rules may not unreasonably restrict branding and marketing information that is not misleading and is

designed to make a product recognizable and distinguish it from similar products sold by competitors;

(o) Records to be kept by licensees and the required availability of the records;

(p) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(q) The reporting and transmittal of tax payments;

(r) Authorization for the division of revenue to have access to licensing information to ensure tax payment and the effective administration of this section;

(s) Ensure an adequate supply of cannabis for medical use, including but not limited to regulations that require facilities to maintain an adequate supply of cannabis for medical use based on sales history and requiring contracts to supply cannabis for medical use to take precedence over contracts to supply cannabis for adult use; and

(t) Such other matters as are necessary for the fair, impartial, and comprehensive administration of this section.

(3) Require a seed-to-sale tracking system that tracks cannabis from either the seed or immature plant stage until the cannabis is sold to a consumer to ensure that no cannabis grown by a cannabis cultivation facility or manufactured by a cannabis manufacturing facility is sold or otherwise transferred to a consumer except by a cannabis retail facility or certified delivery entity. The division shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees. The division may coordinate with the department of health and senior services to utilize the same seed to sale tracking system as is used to track marijuana for medical use;

(4) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the division under this section.

(5) If the division fails to promulgate rules and issue licenses specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(6) The division shall not have the authority to apply or enforce any rule or regulation that would require additional fees for applicants, license holders, or certificate holders; impose an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose an undue burden if it imposes restrictions that are greater than those imposed on the manufacture and sale of alcoholic beverages.

4. Licensing

(1) Cannabis transportation and delivery certifications may be issued as follows. The division shall certify entities which demonstrate compliance with its transportation and delivery standards to transport or deliver cannabis. The division shall issue standards for the secure transportation and delivery of cannabis. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation and delivery of cannabis but shall not impose standards that make the transportation or delivery of cannabis impracticable. There shall be no additional fee for a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility to be certified for transportation or delivery.

(2) Cannabis testing certification and standards may be issued as follows. The division shall certify cannabis testing facilities which demonstrate compliance with its rules for independent testing and certification of cannabis. The division shall issue rules or emergency rules establishing standards for a cannabis independent testing and certification program for cannabis licensees and requiring licensees to test cannabis using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. However, the rules shall not

impose any requirements that make it impracticable for an otherwise qualified facility to obtain certification. The division shall not require any cannabis to be tested more than once prior to sale. No cannabis testing facility shall be owned by an entity under substantially common control, ownership, or management as a cannabis cultivation, manufacturing, or retail facility licensed under this section or a medical marijuana cultivation, manufacturing, or dispensary facility licensed under Article XIV section 1. Testing facilities licensed under Article XIV section 1 shall be automatically certified to test cannabis under the rules issued by the division for the testing of cannabis for adult use.

(3) Cannabis hospitality facility certification may be issued as follows. The division shall certify entities which demonstrate compliance with its hospitality standards to allow for the consumption of cannabis on its premises. The division shall issue standards for the safe consumption of cannabis at locations other than a private residence. The standards shall allow for the facility to sell or provide food and beverages, including alcoholic beverages. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the safe consumption of cannabis at a location other than a private residence, but shall not impose standards that make the operation of a cannabis hospitality facility impracticable.

(4) Cannabis cultivation facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to grow cannabis as a cannabis cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single location. Each facility may be limited by the division to not less than thirty thousand square feet of flowering plant canopy space. Facilities may choose to grow indoors using artificial light, outdoors, in a greenhouse utilizing a combination of artificial and natural light, or any combination of methods. The license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana cultivation facility may also apply for a cannabis cultivation facility license at the same location.

(5) Cannabis manufacturing facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana manufacturing facility may also apply for a cannabis manufacturing facility license at the same location.

(6) Cannabis retail facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis retail facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana dispensary facility may also apply for a cannabis retail facility license at the same location.

(7) The division may charge an application or renewal fee for each license type not to exceed two thousand five hundred dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency. Applications re-submitted after a denial shall not be charged an additional application fee, but may be charged a fee of not more than five hundred dollars for a re-submitted application.

(8) The division may charge a certification and renewal fee for each certification type not to exceed one thousand dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency.

(9) An entity may apply for a reduced application or renewal fee. The division shall develop rules to determine the eligibility of an applicant for a reduced fee. The rules shall include consideration for entities:

(a) locating in an area that has an unemployment rate above the national average;

(b) locating in an area that has been designated as an Economic Disadvantaged Zone by the US Division of Commerce;

(c) owned and operated by individuals in protected classes;

(d) owned and operated by veterans;

(e) owned or operated by an entity that was previously denied a medical marijuana facility license based on application score; or

(f) any other factors that would promote the inclusion of small and locally owned businesses and individuals in historically marginalized groups.

(10) All owners, officers, managers, and employees of entities licensed or certified pursuant to this section, shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, may forward the fingerprints to the Federal Bureau of Investigation(FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530. Notwithstanding the provisions of section 610.120, all records related to any criminal history information shall be available to the division. The criminal background check may be requested by the applicant or employer and performed up to ninety days prior to the submission of an application for license, certification, or employment.

(11) The division shall maintain the confidentiality of information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any customer information, or any other records that are exempt from public inspection pursuant to state or federal law. Such information may be used only for a purpose authorized by this section.

(12) The division shall begin accepting license and certification applications not later than August 1, 2023. In order to facilitate the initial costs of regulation, the division may accept application fees beginning January 15, 2023 and shall apply such fees to applications submitted after August 1, 2023. Applications for licenses and certifications under this section shall be approved or denied by the division no later than ninety days after their submission. If the division fails to carry out its nondiscretionary duty to approve or deny an application within ninety days, the application or certification is deemed granted for one year or until revoked for good cause.

(13) There shall be no limit on the number of facility licenses or certifications issued by the division.

(14) Applications for any facility license shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and site security plan;

(ii) A seed to sale tracking system;

(iii) A method for verifying the age or medical marijuana status of any consumer;

(iv) Employment policies that are non-discriminatory and require fingerprint background checks prior to beginning employment at the facility;

(v) A plan to dispose of excess product in the event of the facility closing which may be satisfied by a plan to sell or donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where un-packaged cannabis flower or cannabis-infused products are being prepared or packaged;

(vii) Labeling and packaging policies that are not misleading, are not likely to be confused with non-cannabis containing products, and are designed to make a product recognizable and distinguish it from similar products sold by competitors;

(viii) Record retention policy that allows for the inspection of records of purchases and sales for at least the preceding twenty-four months; and

(ix) Certification that any contracts to supply cannabis for medical use will take precedence over contracts to supply cannabis for adult use.

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(d) The applicant has verified its anticipated location is properly zoned and not within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church; and

(e) The applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(15) Applications for any transportation, delivery, testing, or hospitality certification shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and security plan suitable to the type of certification;

(ii) For testing certifications, an inventory tracking system;

(iii) For hospitality and delivery certifications, a method for verifying the age or medical marijuana patient status of any consumer;

(iv) Employment policies that are non-discriminatory;

(v) A plan to dispose of unused or undelivered product which may be satisfied by a plan to donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where cannabis flower or cannabis-infused products are being tested or consumed;

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(e) For testing facilities, the applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(16) A single entity may hold multiple licenses or certifications and may operate under such licenses at a single location. However, a cannabis hospitality facility certification shall not be issued for a location in which a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility is in operation.

(17) Facilities licensed under Article XIV Section 1 may also apply for and be granted licenses and certifications under this section.

5. Taxation and Funding

(1) Application and renewal fees collected by the division shall be used for the administration of this section. If such fees are insufficient to provide for the administration of this section, the division may apply to the Missouri Economic Recovery and Growth Fund for a cash operating transfer which shall be repaid as provided by law.

(2) A tax is hereby levied upon the retail sale of cannabis for adult use sold at cannabis retail facilities within the state.

(a) The tax shall be at a rate of seven and one-half percent of the retail price.

(b) The tax shall be collected by each licensed cannabis retail facility and paid to the department of revenue. After retaining no more than two percent of the amount collected for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri Economic Recovery and Growth Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(c) Such tax shall not be levied on wholesale sales of cannabis for adult use or any cannabis which is transferred from a cannabis retail facility to a cannabis cultivation or manufacturing facility.

(3) There is hereby created in the state treasury the "Missouri Economic Recovery and Growth Fund", which shall consist of taxes collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the division in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) One-third of all monies collected shall be distributed to not-for-profit organizations, state agencies, and political subdivisions to provide free legal assistance to individuals seeking to expunge a criminal record, or to increase staffing levels to process expungement requests in a timely fashion; and

(b) Two-thirds of all monies collected shall be transferred to the general revenue fund.

(4) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing funding.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of cannabis for adult use.

(6) The fees and taxes provided for in this Article XIV, Section 2 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) A local government may impose a retail sales taxes on the retail sale of cannabis for adult use. Such taxes shall be imposed in the same way as provided for other retail sales taxes in law. Local taxes imposed on the retail sale of cannabis for adult use shall not exceed those imposed by the same jurisdiction on the retail sale of alcoholic beverages or other retail sales whichever is higher.

(8) Any consumer who presents a duly issued medical marijuana patient identification card or a medical marijuana primary caregiver identification card shall not pay the sales tax provided for in this section, but shall pay the sales tax required for medical marijuana sales in Article XIV Section 1.

6. Public Safety

(1) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of cannabis.

(2) A criminal conviction for an intoxication related offense shall require a showing that the person was actually impaired at the time the offense occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show actual impairment.

(3) An allegation of negligence while under the influence of cannabis shall require a showing that the person was actually under the influence of cannabis at the time the negligence occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show the person was actually under the influence.

(3) A consumer may cultivate up to twenty-five square feet of flowering canopy of cannabis for adult use in any space owned or leased by said consumer. The space in which cannabis for adult use is being cultivated must be secured against entry by unauthorized individuals including individuals under twenty-one years of age. Such cannabis shall not be provided for sale to any individual but may be sold or donated through the compassionate care program established in this section.

(4) A consumer may possess the following amounts of cannabis at any one time:

(a) up to eight ounces of dried unprocessed flower;

(b) up to twenty-eight grams of concentrated resin or extract; and

(c) up to four thousand milligrams of tetrahydrocannabinol in cannabis-infused products.

(5) No individual who is under twenty-one years of age may possess cannabis in any amount unless such individual is in possession of a medical marijuana patient or primary caregiver license issued pursuant to Article XIV Section 1.

(6) The legislature may pass criminal statute related to the possession, delivery, or distribution of cannabis in excess of the limits provided for in this section without the appropriate license. However, in no case shall the possession, delivery, or distribution of cannabis in an amount less than two times the limits provided for in this section be deemed a felony unless such delivery or distribution was to a person under twenty-one years of age. Any existing laws which criminalize possession, delivery, or distribution of cannabis in amounts less than the limits provided for in this section are hereby declared null and void unless such delivery or distribution was to a person under twenty-one years of age.

(7) Any individual convicted for a crime, other than a dangerous felony or the delivery or distribution to a person under seventeen years of age and more than two years younger than the person being charged, may file for release from custody and expungement of their criminal record in the jurisdiction in which the conviction occurred. Such release from custody shall be expedited and shall be granted unless the person seeking release is incarcerated for additional crimes. Such expungement shall be granted as a matter of right and shall not affect an individual's ability to seek expungement of other offenses under the laws of this state. The supreme court shall make available to the public free of charge forms for a release from custody or the expungement of such offenses. The filing fee for a motion or new cause of action under this subsection shall be no more than the filing fee for actions brought in the small claims court of the same jurisdiction.

(8) The presence or the smell of cannabis shall not be sufficient probable cause for a law enforcement officer to detain or search a person for reasons other than a suspected intoxication offense, or to impound or search the vehicle, residence, or other property of a consumer. Any search or arrest warrant issued for violations of this section or other cannabis laws not in conflict with this section shall require evidence of the violation and shall not be issued on the basis of the presence of cannabis alone. No search or arrest warrant shall be issued based on violations of this section or other cannabis laws not in conflict with this section that would allow law enforcement officers to enter a premises without first knocking and announcing their presence and purpose.

(9) The division shall develop in coordination with the Missouri department of health and senior services a compassionate care program through which cannabis may be tested and sold or donated to a cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility by any consumer, cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility.

Any facility that receives excess cannabis through such program must make any cannabis received through the program available free of charge to qualifying patients and primary caregivers who meet financial need and health necessity criteria. Each facility may develop its own criteria, but in no case shall cannabis be provided free of charge to any individual who is not in possession of a medical marijuana patient or primary caregiver identification card.

7. Local Control

(1) Unless allowed by the local government, no new cannabis cultivation facility, cannabis testing facility, cannabis retail facility, or cannabis manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. A local government may allow for a location closer than one thousand feet but may not impose any restriction greater than one thousand feet.

(2) No local government shall prohibit cannabis cultivation facilities, cannabis testing facilities, cannabis manufacturing facilities, or cannabis retail facilities, or entities with a transportation or hospitality certification from operating within the locality either expressly or through the enactment of ordinances, including but not limited to zoning ordinances, or regulations that make their operation unduly burdensome in the locality. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality so long as such ordinances or regulations are not more restrictive than those imposed on the manufacture or sale of alcoholic beverages.

(3) Local governments shall develop and adopt ordinances and policies related to cannabis facilities and certificate holders no later than June 30, 2023. The local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose excessive fees or an undue burden if it imposes fees higher than or restrictions greater than those imposed on the manufacture and sale of alcoholic beverages.

(4) If the local government fails to adopt ordinances and policies specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the location and licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(3) Local governments may require cannabis cultivation facilities, cannabis manufacturing facilities, cannabis retail facilities, cannabis transportation or delivery certificate holders, cannabis hospitality certificate holders to be licensed businesses under the local ordinances. However no local government shall require an additional fee to be paid or additional special license to be acquired by a cannabis license or certificate holder that is not required for other businesses in the jurisdiction.

(4) A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality so long as such penalties are not greater than those imposed on the manufacture or sale of alcoholic beverages.

8. Other Provisions

(1) All cannabis for adult use sold in Missouri shall be cultivated in a licensed cultivation facility located in Missouri or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis.

(2) All cannabis-infused products for adult use sold in the state of Missouri shall be manufactured in a licensed manufacturing facility or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis-infused products.

(3) A cannabis testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary

action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the adult use of cannabis consistent with this section and otherwise meeting legal standards of professional conduct.

(4) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for being employed by, contracting with, or providing legal assistance to facilities licensed or certified under this section, entities applying for licensing or certification under this section, or any individual seeking legal advice related to activity that is no longer subject to civil or criminal penalties under state law pursuant to this section.

(5) Except as provided for by this section, actions and conduct by consumers, facilities licensed or certified under this section, or the employees, contractors, vendors, or agents of facilities licensed or certified under this section, as permitted by this section and in compliance with division regulations and other provisions of law, shall not be subject to criminal or civil liability or sanctions under Missouri law including but not limited to disciplinary action against a professional license, denial of public assistance programs or public services, or denial of a license to operate a vehicle, watercraft, or other equipment.

(6) It is the public policy of the state of Missouri that contracts related to cannabis for adult use that are entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

(7) No mandatory reporter under the laws of this state shall be required to report the adult use of cannabis by a parent or prospective parent unless such use is in violation of this section or the parent is actively endangering the health and safety of a child. A prospective foster or adoptive parent shall not be discriminated against for their use of cannabis for non-medical purposes unless such use is in violation of this section or other provisions of law not in conflict with this section.

(8) The denial of a license, license renewal, or identification card by the division shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the division shall be subject to judicial review as provided by law.

(9) No elected official shall interfere directly or indirectly with the division's obligations and activities under this section.

9. Severability

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 15, 2021

RECEIVED
JUL 15 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Articles XIV and XIX, version 1 (2022-046)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on July 15, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-046

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 JUL 15 AM 9

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article XIV of the Constitution is revised by amending Section 1, and adopting one new section to be known as Article XIX, Section 2 to read as follows:

Section 1. 1. Purposes.

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the [limited] legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

2. Definitions.

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the department of health and senior services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" or "marihuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp [containing a cropwide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis] <u>as defined by federal law</u>, or commodities or products manufactured from industrial hemp <u>as defined by federal law</u>.

(6) "Marijuana-infused products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(7) "Medical marijuana cultivation facility" means a facility licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

(8) "Medical marijuana dispensary facility" means a facility licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

(9) "Medical marijuana-infused products manufacturing facility" means a facility licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

(10) "Medical marijuana testing facility" means a facility certified by the department to acquire, test, certify, and transport marijuana.

(11) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(12) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(13) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.

(14) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department. Any health care provider licensed under the laws of the state may also serve as a primary caregiver. A qualifying patient may have up to three primary caregivers.

(15) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory

bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(16) "Qualifying patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

3. Creating Patient Access to Medical Marijuana.

(1) In carrying out the implementation of this section, the department shall have the authority to:

(a) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and for the enforcement of this section so long as patient access is not restricted unreasonably and such rules are reasonably necessary for patient safety or to restrict access to only licensees and qualifying patients.

(c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver to ensure that no medical marijuana grown by a medical marijuana cultivation facility or manufactured by a medical marijuana-infused products manufacturing facility is sold or otherwise transferred except by a medical marijuana dispensary facility. The department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities which demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another entity with a transportation certification. The department shall develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation of marijuana. Any entity licensed or certified pursuant to this section shall be allowed to transport cannabis.

(f) The department may charge a fee not to exceed $5,000 for any certification issued pursuant to this section.

(g) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the department under this section;

[(h) Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section, which scoring shall be limited to an analysis of the following:

(i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers;

(ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income qualifying patients;

(iii) site security;

(iv) experience in a legal cannabis market;

(v) in the case of medical marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience;

(vi) the potential for positive economic impact in the site community;

(vii) in the case of medical marijuana cultivation facilities, capacity or experience with agriculture, horticulture, and health care;

(viii) in the case of medical marijuana dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;

(ix) in the case of medical marijuana-infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and

(x) maintaining competitiveness in the marijuana for medical use marketplace.

In ranking applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise regarding these factors. The department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by qualifying patients.]

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the medical marijuana dispensary facility, product display and examination by the qualifying patient and/or primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed or certified pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, [shall] <u>may</u> forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a

fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530;

(i) Security requirements for any premises licensed or certified pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a medical marijuana dispensary facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. The department shall not require any medical marijuana or medical marijuana-infused products to be tested more than once prior to sale.

(4) The department shall issue rules or emergency rules to provide for the certification of and standards for medical marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as medical marijuana testing facilities. No medical marijuana testing facility shall be owned by an entity under substantially common control, ownership, or management as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

(5) The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation

facilities, medical marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

(7) Within one hundred eighty days of December 6, 2018, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within two hundred ten days of December 6, 2018, the department shall begin accepting applications for such identification cards.

(8) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana cultivation facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five medical marijuana dispensary facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana-infused products manufacturing facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(11) Any applicant for a license authorized by this section may prefile their application fee with the department beginning 30 days after December 6, 2018.

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to [six flowering marijuana plants] <u>fifty square feet of canopy space</u> for the [exclusive use] <u>benefit</u> of that qualifying patient. The card shall

be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of [one hundred] twenty-five dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. In no case shall any qualifying patient cultivate more than fifty square feet of canopy space regardless of the number of primary caregivers assigned to said qualifying patient.

(13) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty-day period, provided that limit is not less than four ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the department.

(14) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty-day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. In no case shall the total amount of medical marijuana attributed to a single qualifying patient in the possession of multiple primary caregivers exceed the limit set by the department. Qualifying patients cultivating marijuana for medical use may possess up to a [ninety-day] one year supply, so long as the supply remains secured on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by [imprisonment of up to one year and] a fine of up to two thousand dollars.

[(15) The department may restrict the aggregate number of licenses granted for medical marijuana cultivation facilities, provided, however, that the number may not be limited to fewer than one license per every one hundred thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department may restrict the aggregate number of licenses granted for marijuana-infused products manufacturing facilities, provided, however, that the number may not be limited to fewer than one license per every seventy thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department may restrict the aggregate number of licenses granted for medical marijuana dispensary facilities, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018. Future changes to the boundaries of or the number of congressional districts shall have no impact.]

(18) The department shall begin accepting license and certification applications for medical marijuana dispensary facilities, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after December 6, 2018. Applications for licenses and certifications under this section shall be approved or denied by the department no later than one hundred fifty days after their submission. If the department fails to carry out its nondiscretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(19) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the department. The department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor

index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the department fails to deny and fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their qualifying patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(20) Primary caregivers under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(21) All marijuana for medical use sold in Missouri shall be cultivated in a licensed medical marijuana cultivation facility located in Missouri.

(22) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a medical marijuana-infused products manufacturing facility.

(23) The denial of a license, license renewal, or identification card by the department shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the department shall be subject to judicial review as provided by law.

(24) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(25) The department shall not have the authority to apply or enforce any rule or regulation that would impose an undue burden on any one or more licensees or certificate holders, any qualifying patients, or act to undermine the purposes of this section.

4. Taxation and Reporting.

(1) A tax is levied upon the retail sale of marijuana for medical use sold at medical marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and paid to the department of revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri veterans' health and care fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund", which shall consist of taxes and fees collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount not to exceed twenty percent of net deposits which is necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies

necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri veterans commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri service officer's program, and other services for veterans approved by the commission, including, but not limited to, health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri veterans commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from, and in addition to, any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

(6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

5. Additional Patient, Physician, Caregiver and Provider Protections.

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the department, and transportation of marijuana from a medical marijuana dispensary facility to the qualifying patient's residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid qualifying patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri state board of registration for the healing arts, or its successor agency, for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider, including individuals licensed under chapter 335 or 337 or their successor statutes, shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any

accreditation or licensing board or commission for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A medical marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by nonemancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation [of up to six flowering marijuana plants per patient] in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

6. Legislation.

Nothing in this section shall limit the general assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section.

7. Additional Provisions.

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or entity with a transportation certification shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a nonviolent crime [for which he or she was not incarcerated and that is more than five years old]; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The department may consult with and rely on the records, advice and recommendations of the attorney general and the department of public safety, or their successor entities, in applying this subdivision.

(3) All medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility licenses, entities with medical marijuana testing facility certifications, and entities with transportation certifications shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) No medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including loss of license.

(5) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana", or a "Marijuana-Infused Product". Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty.

(6) No individual shall serve as the primary caregiver for more than [three] <u>ten</u> qualifying patients.

(7) No qualifying patient shall consume marijuana for medical use in a public place, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(8) No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and, if applicable, loss of their identification card, certificate, or license for up to one year.

(9) All qualifying patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. [Two qualifying] Qualifying patients and care givers, who [both] hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. No shared facility may contain more than five thousand square feet of canopy space without obtaining a medical marijuana cultivation facility license. [No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.]

(10) No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

(11) Unless allowed by the local government, no new medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality.

(12) Unless superseded by federal law or an amendment to this Constitution, a physician shall not certify a qualifying condition for a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic, or in another commonly used format. A qualifying patient must obtain a new physician certification at least annually.

(13) A physician shall not issue a certification for the medical use of marijuana for a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. [Only a parent or guardian may serve as a primary caregiver for a nonemancipated qualifying patient under the age of eighteen.] At least one of the primary caregivers for a nonemancipated qualifying patient under the age of eighteen must be a parent or legal guardian. Only the qualifying patient's [parent or guardian] primary caregiver shall purchase or possess medical marijuana for a nonemancipated qualifying patient under the age of eighteen. A [parent or guardian] primary caregiver shall supervise the administration of medical marijuana to a nonemancipated qualifying patient under the age of eighteen.

(14) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(15) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

8. Severability.

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

[9. Effective Date.

The provisions of this section shall become effective on December 6, 2018.]

Section 2.

1. Purpose

This section is intended to permit the safe and legal use of cannabis by adults over the age of twenty-one and to reasonably regulate the cultivation, processing, manufacturing, and distribution of cannabis. The people of Missouri have a right to enjoy the benefits of their labor free from unreasonable regulation. This section creates a legal, regulated, and taxed cannabis industry so Missouri businesses can participate in the growing market, and the state can reduce the burden on the budget and criminal justice system caused by the prosecution and incarceration of non-violent cannabis possession and distribution.

This section is not intended to supplant the medical marijuana market. The medical marijuana market is a necessary and important part of many patients' treatment plans. Care guided by a health care provider is important when cannabis is used in an intensive and therapeutic manner.

This section is intended to make only those changes to Missouri laws that are necessary to protect consumers and businesses in the cannabis industry from civil and criminal penalties; and to allow for the responsible consumption of cannabis, combat illegal underage consumption of cannabis, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed cannabis cultivators, manufacturers, transporters, hospitality establishments, and retailers. This section is not intended to allow for the unregulated public use of cannabis; the operation of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; the use of cannabis in the workplace; or the use of cannabis by persons under twenty-one years of age.

2. Definitions.

(1) "Adult use" means the production, possession, delivery, distribution, transportation, or ingestion of cannabis or a cannabis-infused product, or drug paraphernalia used to ingest cannabis or a cannabis-infused product, by a person over the age of twenty-one for purposes other than those provided for in Article XIV Section 1.

(2) "Cannabis" means *Cannabis indica, Cannabis sativa, and Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute cannabis, hemp, or marijuana. "Cannabis" includes resin extracted from the plant and cannabis-infused products. "Cannabis" does not include industrial hemp as defined by Federal law or commodities or products manufactured from industrial hemp as defined by Federal law. "Cannabis" does not include parts of the plant that do not contain tetrahydrocannabinol (THC) or the soil or substrate in which the plants were grown.

(3) "Cannabis-infused products" means products that are infused with cannabis or an extract thereof and are intended for ingestion other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(4) "Cannabis cultivation facility" means a facility licensed by the division to acquire, cultivate, process, store, package, transport, and sell cannabis to or from a cannabis retail facility, cannabis testing facility, cannabis manufacturing facility, or another cannabis cultivation facility.

(5) “Cannabis hospitality facility” means a facility certified by the division to permit the consumption of cannabis by consumers or qualifying patients on the premises.

(6) "Cannabis manufacturing facility" means a facility licensed by the division to acquire, process, manufacture, produce, store, package, transport, and sell cannabis and paraphernalia used to ingest cannabis as provided for in this section to or from a cannabis retail facility, cannabis testing facility, cannabis cultivation facility, or another cannabis manufacturing facility.

(7) "Cannabis retail facility" means a facility licensed by the division to acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to a consumer, and acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to or from another cannabis retail facility, a cannabis testing facility, cannabis manufacturing facility, or a cannabis cultivation facility.

(8) "Cannabis testing facility" means a facility certified by the division or the division of health and senior services to acquire, test, certify, and transport cannabis.

(9) “Child-Resistant Packaging” means resealable packaging that is opaque and is designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use.

(10) “Consumer” means a natural person over the age of twenty-one.

(11) “Delivery” means the delivery of cannabis from a cannabis retail facility to a consumer.

(12) “Disqualifying felony” means any dangerous felony as defined by the laws of this state, but shall not include any felony which is based on the possession or distribution of cannabis unless such act included the distribution of cannabis to a person under the age of seventeen and more than two years younger than the person being charged.

(13) “Division” means the division of alcohol and tobacco control within the department of public safety, or its successor division.

(14) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(15) "Flowering plant" means a cannabis plant from the time it shows physical signs of flowering or budding out of the nodes of the stem through harvest.

(16) “Historically Marginalized Population” means African American and Hispanic populations.

(17) “Ingest” means any method of introducing cannabis or its chemical components into the human body including but not limited to:

(a) Ingestion of capsules, teas, oils, and other cannabis-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories; or

(e) Consuming cannabis-infused food products.

(18) “Local Government” means a county, township, city, town, village, or municipality.

(19) “Transportation” means the movement of cannabis between licensed facilities. “Transportation” includes the delivery of cannabis to a cannabis retail facility but does not include delivery of cannabis directly to a consumer.

3. Regulation

In carrying out the implementation of this section, the division shall have the authority to:

(1) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, transportation, delivery, and hospitality of cannabis for adult use in accordance with this section; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(2) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, sale, transportation, and delivery of cannabis for adult use, and for the enforcement of this section, so long as access is not restricted unreasonably and such rules are reasonably necessary for consumer safety or to restrict access to only persons over twenty-one years of age. Such rules may include provisions related to:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the division;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary;

(e) Creation of a range of administrative penalties for use by the division;

(f) Prohibition of misrepresentation and unfair practices;

(g) Regulation of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the cannabis retail facility, product display and examination by a consumer, listings in business directories including online directories and phone books, listings in cannabis-related publications and websites, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of identification cards for entities licensed or certified pursuant to this section, including a fingerprint-based criminal background check for owners, officers, and managers of such entities.

(i) Develop such forms, certificates, licenses, and applications, which may be provided in electronic or digital format, as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(j) Requirements for any entity licensed or certified by the division to create and follow security policies that prevent access to cannabis by any person under the age of twenty-one; prevent entry by any person not authorized by the division or the license holder into areas where cannabis is being cultivated, manufactured, or stored; and provide immediate notice to the entity or their designated agent of any attempt by a person to gain unauthorized or illegal access to cannabis or any area where cannabis is being cultivated, manufactured, or stored;

(k) Regulation of the storage of, warehouses for, and transportation of cannabis for adult use;

(l) Sanitary requirements for, including, but not limited to, the preparation of cannabis-infused products;

(m) The specification of acceptable forms of identification that a cannabis retail facility may accept when verifying a sale;

(n) Labeling and packaging standards that require child-resistant packaging provided that the rules may not unreasonably restrict branding and marketing information that is not misleading and is

designed to make a product recognizable and distinguish it from similar products sold by competitors;

(o) Records to be kept by licensees and the required availability of the records;

(p) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(q) The reporting and transmittal of tax payments;

(r) Authorization for the division of revenue to have access to licensing information to ensure tax payment and the effective administration of this section;

(s) Ensure an adequate supply of cannabis for medical use, including but not limited to regulations that require facilities to maintain an adequate supply of cannabis for medical use based on sales history and requiring contracts to supply cannabis for medical use to take precedence over contracts to supply cannabis for adult use; and

(t) Such other matters as are necessary for the fair, impartial, and comprehensive administration of this section.

(3) Require a seed-to-sale tracking system that tracks cannabis from either the seed or immature plant stage until the cannabis is sold to a consumer to ensure that no cannabis grown by a cannabis cultivation facility or manufactured by a cannabis manufacturing facility is sold or otherwise transferred to a consumer except by a cannabis retail facility or certified delivery entity. The division shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees. The division may coordinate with the department of health and senior services to utilize the same seed to sale tracking system as is used to track marijuana for medical use;

(4) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the division under this section.

(5) If the division fails to promulgate rules and issue licenses specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(6) The division shall not have the authority to apply or enforce any rule or regulation that would require additional fees for applicants, license holders, or certificate holders; impose an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose an undue burden if it imposes restrictions that are greater than those imposed on the manufacture and sale of alcoholic beverages.

4. Licensing

(1) Cannabis transportation and delivery certifications may be issued as follows. The division shall certify entities which demonstrate compliance with its transportation and delivery standards to transport or deliver cannabis. The division shall issue standards for the secure transportation and delivery of cannabis. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation and delivery of cannabis but shall not impose standards that make the transportation or delivery of cannabis impracticable. There shall be no additional fee for a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility to be certified for transportation or delivery.

(2) Cannabis testing certification and standards may be issued as follows. The division shall certify cannabis testing facilities which demonstrate compliance with its rules for independent testing and certification of cannabis. The division shall issue rules or emergency rules establishing standards for a cannabis independent testing and certification program for cannabis licensees and requiring licensees to test cannabis using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. However, the rules shall not

impose any requirements that make it impracticable for an otherwise qualified facility to obtain certification. The division shall not require any cannabis to be tested more than once prior to sale. No cannabis testing facility shall be owned by an entity under substantially common control, ownership, or management as a cannabis cultivation, manufacturing, or retail facility licensed under this section or a medical marijuana cultivation, manufacturing, or dispensary facility licensed under Article XIV section 1. Testing facilities licensed under Article XIV section 1 shall be automatically certified to test cannabis under the rules issued by the division for the testing of cannabis for adult use.

(3) Cannabis hospitality facility certification may be issued as follows. The division shall certify entities which demonstrate compliance with its hospitality standards to allow for the consumption of cannabis on its premises. The division shall issue standards for the safe consumption of cannabis at locations other than a private residence. The standards shall allow for the facility to sell or provide food and beverages, including alcoholic beverages. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the safe consumption of cannabis at a location other than a private residence, but shall not impose standards that make the operation of a cannabis hospitality facility impracticable.

(4) Cannabis cultivation facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to grow cannabis as a cannabis cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single location. Each facility may be limited by the division to not less than thirty thousand square feet of flowering plant canopy space. Facilities may choose to grow indoors using artificial light, outdoors, in a greenhouse utilizing a combination of artificial and natural light, or any combination of methods. The license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana cultivation facility may also apply for a cannabis cultivation facility license at the same location.

(5) Cannabis manufacturing facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana manufacturing facility may also apply for a cannabis manufacturing facility license at the same location.

(6) Cannabis retail facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis retail facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana dispensary facility may also apply for a cannabis retail facility license at the same location.

(7) The division may charge an application or renewal fee for each license type not to exceed two thousand five hundred dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency. Applications re-submitted after a denial shall not be charged an additional application fee, but may be charged a fee of not more than five hundred dollars for a re-submitted application.

(8) The division may charge a certification and renewal fee for each certification type not to exceed one thousand dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency.

(9) An entity may apply for a reduced application or renewal fee. The division shall develop rules to determine the eligibility of an applicant for a reduced fee. The rules shall include consideration for entities:

(a) locating in an area that has an unemployment rate above the national average;

(b) locating in an area that has been designated as an Economic Disadvantaged Zone by the US Division of Commerce;

(c) owned and operated by individuals in protected classes;

(d) owned and operated by veterans;

(e) owned or operated by an entity that was previously denied a medical marijuana facility license based on application score; or

(f) any other factors that would promote the inclusion of small and locally owned businesses and individuals in historically marginalized groups.

(10) All owners, officers, managers, and employees of entities licensed or certified pursuant to this section, shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, may forward the fingerprints to the Federal Bureau of Investigation(FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530. Notwithstanding the provisions of section 610.120, all records related to any criminal history information shall be available to the division. The criminal background check may be requested by the applicant or employer and performed up to ninety days prior to the submission of an application for license, certification, or employment.

(11) The division shall maintain the confidentiality of information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any customer information, or any other records that are exempt from public inspection pursuant to state or federal law. Such information may be used only for a purpose authorized by this section.

(12) The division shall begin accepting license and certification applications not later than August 1, 2023. In order to facilitate the initial costs of regulation, the division may accept application fees beginning January 15, 2023 and shall apply such fees to applications submitted after August 1, 2023. Applications for licenses and certifications under this section shall be approved or denied by the division no later than ninety days after their submission. If the division fails to carry out its nondiscretionary duty to approve or deny an application within ninety days, the application or certification is deemed granted for one year or until revoked for good cause.

(13) There shall be no limit on the number of facility licenses or certifications issued by the division.

(14) Applications for any facility license shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and site security plan;

(ii) A seed to sale tracking system;

(iii) A method for verifying the age or medical marijuana status of any consumer;

(iv) Employment policies that are non-discriminatory and require fingerprint background checks prior to beginning employment at the facility;

(v) A plan to dispose of excess product in the event of the facility closing which may be satisfied by a plan to sell or donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where un-packaged cannabis flower or cannabis-infused products are being prepared or packaged;

(vii) Labeling and packaging policies that are not misleading, are not likely to be confused with non-cannabis containing products, and are designed to make a product recognizable and distinguish it from similar products sold by competitors;

(viii) Record retention policy that allows for the inspection of records of purchases and sales for at least the preceding twenty-four months; and

(ix) Certification that any contracts to supply cannabis for medical use will take precedence over contracts to supply cannabis for adult use.

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(d) The applicant has verified its anticipated location is properly zoned and not within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church; and

(e) The applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(15) Applications for any transportation, delivery, testing, or hospitality certification shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and security plan suitable to the type of certification;

(ii) For testing certifications, an inventory tracking system;

(iii) For hospitality and delivery certifications, a method for verifying the age or medical marijuana patient status of any consumer;

(iv) Employment policies that are non-discriminatory;

(v) A plan to dispose of unused or undelivered product which may be satisfied by a plan to donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where cannabis flower or cannabis-infused products are being tested or consumed;

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(e) For testing facilities, the applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(16) A single entity may hold multiple licenses or certifications and may operate under such licenses at a single location. However, a cannabis hospitality facility certification shall not be issued for a location in which a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility is in operation.

(17) Facilities licensed under Article XIV Section 1 may also apply for and be granted licenses and certifications under this section.

5. Taxation and Funding

(1) Application and renewal fees collected by the division shall be used for the administration of this section. If such fees are insufficient to provide for the administration of this section, the division may apply to the Missouri Economic Recovery and Growth Fund for a cash operating transfer which shall be repaid as provided by law.

(2) A tax is hereby levied upon the retail sale of cannabis for adult use sold at cannabis retail facilities within the state.

(a) The tax shall be at a rate of seven and one-half percent of the retail price.

(b) The tax shall be collected by each licensed cannabis retail facility and paid to the department of revenue. After retaining no more than two percent of the amount collected for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri Economic Recovery and Growth Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(c) Such tax shall not be levied on wholesale sales of cannabis for adult use or any cannabis which is transferred from a cannabis retail facility to a cannabis cultivation or manufacturing facility.

(3) There is hereby created in the state treasury the "Missouri Economic Recovery and Growth Fund", which shall consist of taxes collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the division in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) One-third of all monies collected shall be distributed to state agencies and political subdivisions for:

(i) the provision and expansion of internet access as a public utility;

(ii) the repair and improvement of existing roads and bridges; or

(iii) the repair and improvement of other public utility services including but not limited to water, sewer, and electricity; and

(b) One-third of all monies collected shall be distributed by the division, with the input of an advisory board at least one third of whose members are health care professionals with experience in the medical use of cannabis, through grants to state agencies, educational institutions, and not-for-profit organizations to:

(i) increase access to evidence-based low-barrier drug addiction treatment; to support drug overdose prevention and reversal education;

(ii) support job placement, housing, and ongoing counseling for those with substance abuse disorders; or

(iii) to provide free legal assistance to individuals seeking to expunge a criminal record or who have been charged with a drug-related crime;

(iv) provide funding for research into the effects of cannabis on the human body, detection of active tetrahydrocannabinol (THC) levels in the human body, and the potential uses of cannabis in psychiatric or substance abuse treatment; and

(c) One-third of all monies collected shall be distributed by the division through grants to not-for-profit organizations that:

(i) provide zero percent interest rate loans or grants to small businesses that are owned by individuals who are members of a historically marginalized population; or

(ii) provide cannabis industry training programs for incarcerated or formerly incarcerated individuals.

(4) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing funding.

(5) The unexpended balance existing in the Missouri Economic Recovery and Growth Fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund until the end of the 2028 fiscal year.

(6) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of cannabis for adult use.

(7) The fees and taxes provided for in this Article XIV, Section 2 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(8) A local government may impose a retail sales taxes on the retail sale of cannabis for adult use. Such taxes shall be imposed in the same way as provided for other retail sales taxes in law. Local taxes imposed on the retail sale of cannabis for adult use shall not exceed those imposed by the same jurisdiction on the retail sale of alcoholic beverages or other retail sales whichever is higher.

(9) Any consumer who presents a duly issued medical marijuana patient identification card or a medical marijuana primary caregiver identification card shall not pay the sales tax provided for in this section, but shall pay the sales tax required for medical marijuana sales in Article XIV Section 1.

6. Public Safety

(1) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of cannabis.

(2) A criminal conviction for an intoxication related offense shall require a showing that the person was actually impaired at the time the offense occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show actual impairment.

(3) An allegation of negligence while under the influence of cannabis shall require a showing that the person was actually under the influence of cannabis at the time the negligence occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show the person was actually under the influence.

(3) A consumer may cultivate up to twenty-five square feet of flowering canopy of cannabis for adult use in any space owned or leased by said consumer. The space in which cannabis for adult use is being cultivated must be secured against entry by unauthorized individuals including individuals under twenty-one years of age. Such cannabis shall not be provided for sale to any individual but may be sold or donated through the compassionate care program established in this section.

(4) A consumer may possess the following amounts of cannabis at any one time:

(a) up to eight ounces of dried unprocessed flower;

(b) up to twenty-eight grams of concentrated resin or extract; and

(c) up to four thousand milligrams of tetrahydrocannabinol in cannabis-infused products.

(5) No individual who is under twenty-one years of age may possess cannabis in any amount unless such individual is in possession of a medical marijuana patient or primary caregiver license issued pursuant to Article XIV Section 1.

(6) The legislature may pass criminal statute related to the possession, delivery, or distribution of cannabis in excess of the limits provided for in this section without the appropriate license. However, in no case shall the possession, delivery, or distribution of cannabis in an amount less than two times the limits provided for in this section be deemed a felony unless such delivery or distribution was to a person under twenty-one years of age. Any existing laws which criminalize possession, delivery, or distribution of cannabis in amounts less than the limits provided for in this section are hereby declared null and void unless such delivery or distribution was to a person under twenty-one years of age.

(7) Any individual convicted for a crime, other than a dangerous felony or the delivery or distribution to a person under seventeen years of age and more than two years younger than the person being charged, may file for release from custody and expungement of their criminal record in the jurisdiction in which the conviction occurred. Such release from custody shall be expedited and shall be granted unless the person seeking release is incarcerated for additional crimes. Such expungement shall be granted as a matter of right and shall not affect an individual's ability to seek expungement of other offenses under the laws of this state. The supreme court shall make available to the public free of charge forms for a release from custody or the expungement of such offenses. The filing fee for a motion or new cause of action under this subsection shall be no more than the filing fee for actions brought in the small claims court of the same jurisdiction.

(8) The presence or the smell of cannabis shall not be sufficient probable cause for a law enforcement officer to detain or search a person for reasons other than a suspected intoxication offense, or to impound or search the vehicle, residence, or other property of a consumer. Any search or arrest warrant issued for violations of this section or other cannabis laws not in conflict with this section shall require evidence of the violation and shall not be issued on the basis of the presence of cannabis alone. No search or arrest warrant shall be issued based on violations of this section or other cannabis laws not in conflict with this section that would allow law enforcement officers to enter a premises without first knocking and announcing their presence and purpose.

(9) The division shall develop in coordination with the Missouri department of health and senior services a compassionate care program through which cannabis may be tested and sold or donated to a cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility by any consumer, cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility. Any facility that receives excess cannabis through such program must make any cannabis received through the program available free of charge to qualifying patients and primary caregivers who meet financial need and health necessity criteria. Each facility may develop its own criteria, but in no case shall cannabis be provided free of charge to any individual who is not in possession of a medical marijuana patient or primary caregiver identification card.

7. Local Control

(1) Unless allowed by the local government, no new cannabis cultivation facility, cannabis testing facility, cannabis retail facility, or cannabis manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. A local government may allow for a location closer than one thousand feet but may not impose any restriction greater than one thousand feet.

(2) No local government shall prohibit cannabis cultivation facilities, cannabis testing facilities, cannabis manufacturing facilities, or cannabis retail facilities, or entities with a transportation or hospitality certification from operating within the locality either expressly or through the enactment of ordinances, including but not limited to zoning ordinances, or regulations that make their operation unduly burdensome in the locality. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality so long as such ordinances or regulations are not more restrictive than those imposed on the manufacture or sale of alcoholic beverages.

(3) Local governments shall develop and adopt ordinances and policies related to cannabis facilities and certificate holders no later than June 30, 2023. The local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose excessive fees or an undue burden if it imposes fees higher than or restrictions greater than those imposed on the manufacture and sale of alcoholic beverages.

(4) If the local government fails to adopt ordinances and policies specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the location and licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(3) Local governments may require cannabis cultivation facilities, cannabis manufacturing facilities, cannabis retail facilities, cannabis transportation or delivery certificate holders, cannabis hospitality certificate holders to be licensed businesses under the local ordinances. However no local government shall require an additional fee to be paid or additional special license to be acquired by a cannabis license or certificate holder that is not required for other businesses in the jurisdiction.

(4) A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality so long as such penalties are not greater than those imposed on the manufacture or sale of alcoholic beverages.

8. Other Provisions

(1) All cannabis for adult use sold in Missouri shall be cultivated in a licensed cultivation facility located in Missouri or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis.

(2) All cannabis-infused products for adult use sold in the state of Missouri shall be manufactured in a licensed manufacturing facility or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis-infused products.

(3) A cannabis testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the adult use of cannabis consistent with this section and otherwise meeting legal standards of professional conduct.

(4) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for being employed by, contracting with, or providing legal assistance to facilities licensed or certified under this section, entities applying for licensing or certification under this section, or any individual seeking legal advice related to activity that is no longer subject to civil or criminal penalties under state law pursuant to this section.

(5) Except as provided for by this section, actions and conduct by consumers, facilities licensed or certified under this section, or the employees, contractors, vendors, or agents of facilities licensed or certified under this section, as permitted by this section and in compliance with division regulations and other provisions of law, shall not be subject to criminal or civil liability or sanctions under Missouri law including but not limited to disciplinary action against a professional license, denial of public assistance programs or public services, or denial of a license to operate a vehicle, watercraft, or other equipment.

(6) It is the public policy of the state of Missouri that contracts related to cannabis for adult use that are entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis

hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to cannabis may be prohibited by federal law.

(7) No mandatory reporter under the laws of this state shall be required to report the adult use of cannabis by a parent or prospective parent unless such use is in violation of this section or the parent is actively endangering the health and safety of a child. A prospective foster or adoptive parent shall not be discriminated against for their use of cannabis for non-medical purposes unless such use is in violation of this section or other provisions of law not in conflict with this section.

(8) The denial of a license, license renewal, or identification card by the division shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the division shall be subject to judicial review as provided by law.

(9) No elected official shall interfere directly or indirectly with the division's obligations and activities under this section.

9. Severability

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 13, 2021

RECEIVED
JUL 13 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Article XIX (2022-045)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on July 13, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-045

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

RECEIVED
2021 JUL 13 AM 8:06

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article XIV of the Constitution is revised by adopting one new section to be known as Article XIX, Section 2 to read as follows:

Section 2.

1. Purpose

This section is intended to permit the safe and legal use of cannabis by adults over the age of twenty-one and to reasonably regulate the cultivation, processing, manufacturing, and distribution of cannabis. The people of Missouri have a right to enjoy the benefits of their labor free from unreasonable regulation. This section creates a legal, regulated, and taxed cannabis industry so Missouri businesses can participate in the growing market, and the state can reduce the burden on the budget and criminal justice system caused by the prosecution and incarceration of non-violent cannabis possession and distribution.

This section is intended to make only those changes to Missouri laws that are necessary to protect consumers and businesses in the cannabis industry from civil and criminal penalties; and to allow for the responsible consumption of cannabis, combat illegal underage consumption of cannabis, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed cannabis cultivators, manufacturers, transporters, hospitality establishments, and retailers. This section is not intended to allow for the unregulated public use of cannabis, driving or operating heavy machinery while intoxicated, the use of cannabis in the workplace, or the use of cannabis by persons under twenty-one years of age. This section is not intended to repeal or replace the medical marijuana market.

2. Adult Use of Cannabis by Consumers.

(1) Any person over twenty-one years of age may possess the following amounts of cannabis at any one time:

(a) up to eight ounces of dried unprocessed flower;

(b) up to twenty-eight grams of concentrated resin or extract; and

(c) up to four thousand milligrams of tetrahydrocannabinol in cannabis-infused products.

(2) No individual who is under twenty-one years of age may possess cannabis in any amount unless such individual is in possession of a medical cannabis patient or primary caregiver license issued pursuant to Article XIV Section 1.

(3) A person over twenty-one years of age may cultivate up to twenty-five square feet of flowering canopy of cannabis for adult use in any space owned or leased by said consumer. The space in which cannabis for adult use is being cultivated must be secured against entry by unauthorized individuals including individuals under twenty-one years of age. Such cannabis shall not be provided for sale to any individual but may be sold to a licensed cultivation, manufacturing, or retail facility.

(4) For the purposes of this section, "cannabis" means *Cannabis indica, Cannabis sativa, and Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute cannabis, hemp, or marijuana. “Cannabis” includes resin extracted from the plant and products containing cannabis. "Cannabis" does not include industrial hemp as defined by Federal law or commodities or products manufactured from industrial hemp as defined by Federal law. “Cannabis” does not include parts of the plant that do not contain tetrahydrocannabinol (THC) or the soil or substrate in which the plants were grown.

2. Regulation

(1) The division of alcohol and tobacco within the Missouri department of public safety is hereby authorized to grant or deny state licenses for the cultivation, manufacture, transportation, on-

premises consumption, and sale of cannabis and cannabis containing products and paraphernalia, for any purpose other than those specified in section 1 of this article.

(2) The division is further authorized to promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, transportation, on-premises consumption, and sale of cannabis and cannabis containing products and paraphernalia for any purpose other than those specified in section 1 of this article, and for the enforcement of this section, so long as access to cannabis is not restricted unreasonably and such rules are reasonably necessary for consumer safety or to restrict access to cannabis to only persons over twenty-one years of age.

(3) A rule or regulation shall be presumed to unreasonably restrict access to cannabis if imposes restrictions that are greater than those imposed on the manufacture and sale of alcoholic beverages.

(4) If the division fails to promulgate rules and issue licenses specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(5) The division may charge application or licensure fees to cover the cost of administering the provisions of this section. However, any fees charged shall not exceed two thousand five hundred dollars per license or license application in any single fiscal year. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency.

3. Licensure and Certification

(1) Applications for any cultivation, manufacturing or retail facility license, where the product being cultivated, manufactured, or sold at retail contains cannabis, shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they are able to meet or exceed the requirements of facilities in the regulations promulgated by the division;

(b) All owners have submitted to a fingerprint background check performed not more than ninety days prior to the submission of the application and have not been convicted of any dangerous felonies or for the distribution of controlled substances to a minor;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state; and

(d) The applicant certifies that they will not begin operations until after a commencement inspection as required by the division.

(2) Applications for any entity seeking to be certified to test or transport cannabis, or provide for on-premises consumption of cannabis, shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they are able to meet or exceed the certification standards in the regulations promulgated by the division;

(b) All owners have submitted to a fingerprint background check performed not more than ninety days prior to the submission of the application and have not been convicted of any dangerous felonies or for the distribution of controlled substances to a minor;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state; and

(d) In the case of testing certification, the applicant certifies that they will not begin operations until after a commencement inspection as required by the division.

(3) The division shall begin accepting license and certification applications not later than August 1, 2023. In order to facilitate the initial costs of regulation, the division may accept application fees beginning January 15, 2023 and shall apply such fees to applications submitted after August

1, 2023. Applications for licenses and certifications under this section shall be approved or denied by the division no later than ninety days after their submission. If the division fails to carry out its nondiscretionary duty to approve or deny an application within ninety days, the application or certification is deemed granted for one year or until revoked for good cause.

(4) There shall be no limit on the number of licenses issued by the division.

(5) A single entity may hold multiple licenses or certifications and may operate under such licenses at a single location. However, an on-premises consumption license shall not be issued for a location in which a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility is in operation.

3. Taxation

(1) Application and renewal fees collected by the division shall be used for the administration of this section. If such fees are insufficient to provide for the administration of this section, the division may request additional appropriation through the usual appropriation process.

(2) A tax is hereby levied upon the retail sale of cannabis for adult use sold at cannabis retail facilities within the state.

(a) The tax shall be at a rate of seven and one-half percent of the retail price.

(b) The tax shall be collected by each licensed cannabis retail facility and paid to the department of revenue. After retaining no more than two percent of the amount collected for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the general revenue fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(c) Such tax shall not be levied on wholesale sales of cannabis for adult use or any cannabis which is transferred from a cannabis retail facility to a cannabis cultivation or manufacturing facility.

(3) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of cannabis for adult use.

(4) A local government may impose a retail sales taxes on the retail sale of cannabis for adult use. Such taxes shall be imposed in the same way as provided for other retail sales taxes in law. Local taxes imposed on the retail sale of cannabis for adult use shall not exceed those imposed by the same jurisdiction on the retail sale of alcoholic beverages or other retail sales whichever is higher.

6. Public Safety

(1) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of cannabis. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show the person was actually under the influence.

(2) The legislature may pass criminal statute related to the possession, delivery, or distribution of cannabis in excess of the limits provided for in this section without the appropriate license. However, in no case shall the possession, delivery, or distribution of cannabis in an amount less than two times the limits provided for in this section be deemed a felony unless such delivery or distribution was to a person under twenty-one years of age.

(3) Any individual convicted for a crime, other than a dangerous felony or the delivery or distribution to a person under seventeen years of age and more than two years younger than the person being charged, may file for release from custody and expungement of their criminal record in the jurisdiction in which the conviction occurred. Such release from custody shall be expedited and shall be granted unless the person seeking release is incarcerated for additional crimes. Such expungement shall be granted as a matter of right and shall not affect an individual's ability to seek expungement of other offenses under the laws of this state. The supreme court shall make

available to the public free of charge forms for a release from custody or the expungement of such offenses. The filing fee for a motion or new cause of action under this subsection shall be no more than the filing fee for actions brought in the small claims court of the same jurisdiction.

(4) The presence or the smell of cannabis shall not be sufficient probable cause for a law enforcement officer to detain or search a person for reasons other than a suspected intoxication offense, or to impound or search the vehicle, residence, or other property of a consumer. Any search or arrest warrant issued for violations of this section or other cannabis laws not in conflict with this section shall require evidence of the violation and shall not be issued on the basis of the presence of cannabis alone. No search or arrest warrant shall be issued based on violations of this section or other cannabis laws not in conflict with this section that would allow law enforcement officers to enter a premises without first knocking and announcing their presence and purpose.

7. Local Control

(1) Local governments shall develop and adopt ordinances and policies related to cannabis licensees no later than June 30, 2023. The local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees; create an undue burden on access to consumers; or act to undermine the purposes of this section. An ordinance or policy shall be presumed to impose excessive fees or an undue burden if it imposes fees higher than or restrictions greater than those imposed on the manufacture and sale of alcoholic beverages.

(2) If the local government fails to adopt ordinances and policies specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

8. Other Provisions

(1) All cannabis sold in Missouri shall be tested by a laboratory certified under the laws and regulation of Missouri or the similar laws and regulations of another state if interstate transportation of cannabis and cannabis containing products is not illegal under Federal law.

(2) Individuals and entities who are engaging in the acts permitted by this section and in compliance with division regulations and other provisions of law, shall not be subject to criminal or civil liability or sanctions under Missouri law including but not limited to disciplinary action against a professional license, denial of public assistance programs or public services, or denial of a license to operate a vehicle, watercraft, or other equipment.

(3) It is the public policy of the state of Missouri that contracts related to cannabis should be enforceable. It is the public policy of the state of Missouri that no contract entered into by any individual or entity shall be unenforceable on the basis that activities related to cannabis may be prohibited by federal law.

(4) No mandatory reporter under the laws of this state shall be required to report the use of cannabis by a parent or prospective parent unless such use is in violation of this section or the parent is actively endangering the health and safety of a child. A prospective foster or adoptive parent shall not be discriminated against for their use of cannabis for non-medical purposes unless such use is in violation of this section or other provisions of law not in conflict with this section.

(5) No elected official shall interfere directly or indirectly with the division's obligations and activities under this section.

9. Severability

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 13, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Articles XIV and XIX, version 3 (2022-044)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on July 13, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-044

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

RECEIVED
2021 JUL 13 AM 9:05
SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Signature of Notary _____

Address of Notary _____

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article XIV of the Constitution is revised by amending Section 1, and adopting one new section to be known as Article XIX, Section 2 to read as follows:

Section 1. 1. Purposes.

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the **[**limited**]** legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

2. Definitions.

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the department of health and senior services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" or "marihuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp **[**containing a cropwide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis**]** **as defined by federal law**, or commodities or products manufactured from industrial hemp **as defined by federal law**.

(6) "Marijuana-infused products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(7) "Medical marijuana cultivation facility" means a facility licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

(8) "Medical marijuana dispensary facility" means a facility licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

(9) "Medical marijuana-infused products manufacturing facility" means a facility licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

(10) "Medical marijuana testing facility" means a facility certified by the department to acquire, test, certify, and transport marijuana.

(11) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(12) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(13) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.

(14) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department. **Any health care provider licensed under the laws of the state may also serve as a primary caregiver. A qualifying patient may have up to three primary caregivers.**

(15) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory

bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(16) "Qualifying patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

3. Creating Patient Access to Medical Marijuana.

(1) In carrying out the implementation of this section, the department shall have the authority to:

(a) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and for the enforcement of this section so long as patient access is not restricted unreasonably and such rules are reasonably necessary for patient safety or to restrict access to only licensees and qualifying patients.

(c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver to ensure that no medical marijuana grown by a medical marijuana cultivation facility or manufactured by a medical marijuana-infused products manufacturing facility is sold or otherwise transferred except by a medical marijuana dispensary facility. The department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities which demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another entity with a transportation certification. The department shall develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation of marijuana. Any entity licensed or certified pursuant to this section shall be allowed to transport cannabis.

(f) The department may charge a fee not to exceed $5,000 for any certification issued pursuant to this section.

(g) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the department under this section;

[(h) Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section, which scoring shall be limited to an analysis of the following:

(i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers;

(ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income qualifying patients;

(iii) site security;

(iv) experience in a legal cannabis market;

(v) in the case of medical marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience;

(vi) the potential for positive economic impact in the site community;

(vii) in the case of medical marijuana cultivation facilities, capacity or experience with agriculture, horticulture, and health care;

(viii) in the case of medical marijuana dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;

(ix) in the case of medical marijuana-infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and

(x) maintaining competitiveness in the marijuana for medical use marketplace.

In ranking applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise regarding these factors. The department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by qualifying patients.]

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the medical marijuana dispensary facility, product display and examination by the qualifying patient and/or primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed or certified pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, [shall] **may** forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a

fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530;

(i) Security requirements for any premises licensed or certified pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a medical marijuana dispensary facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. The department shall not require any medical marijuana or medical marijuana-infused products to be tested more than once prior to sale.

(4) The department shall issue rules or emergency rules to provide for the certification of and standards for medical marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as medical marijuana testing facilities. No medical marijuana testing facility shall be owned by an entity under substantially common control, ownership, or management as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

(5) The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation

facilities, medical marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

(7) Within one hundred eighty days of December 6, 2018, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within two hundred ten days of December 6, 2018, the department shall begin accepting applications for such identification cards.

(8) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana cultivation facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five medical marijuana dispensary facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana-infused products manufacturing facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(11) Any applicant for a license authorized by this section may prefile their application fee with the department beginning 30 days after December 6, 2018.

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to [six flowering marijuana plants] **fifty square feet of canopy space** for the [exclusive use] **benefit** of that qualifying patient. The card

shall be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of [one hundred] **twenty-five** dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. **In no case shall any qualifying patient cultivate more than fifty square feet of canopy space regardless of the number of primary caregivers assigned to said qualifying patient.**

(13) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty-day period, provided that limit is not less than four ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the department.

(14) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty-day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. **In no case shall the total amount of medical marijuana attributed to a single qualifying patient in the possession of multiple primary caregivers exceed the limit set by the department.** Qualifying patients cultivating marijuana for medical use may possess up to a [ninety-day] **one year** supply, so long as the supply remains **secured** on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by [imprisonment of up to one year and] a fine of up to two thousand dollars.

[(15) The department may restrict the aggregate number of licenses granted for medical marijuana cultivation facilities, provided, however, that the number may not be limited to fewer than one license per every one hundred thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department may restrict the aggregate number of licenses granted for marijuana-infused products manufacturing facilities, provided, however, that the number may not be limited to fewer than one license per every seventy thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department may restrict the aggregate number of licenses granted for medical marijuana dispensary facilities, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018. Future changes to the boundaries of or the number of congressional districts shall have no impact.]

(18) The department shall begin accepting license and certification applications for medical marijuana dispensary facilities, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after December 6, 2018. Applications for licenses and certifications under this section shall be approved or denied by the department no later than one hundred fifty days after their submission. If the department fails to carry out its nondiscretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(19) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the department. The department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or

decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the department fails to deny and fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their qualifying patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(20) Primary caregivers under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(21) All marijuana for medical use sold in Missouri shall be cultivated in a licensed medical marijuana cultivation facility located in Missouri.

(22) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a medical marijuana-infused products manufacturing facility.

(23) The denial of a license, license renewal, or identification card by the department shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the department shall be subject to judicial review as provided by law.

(24) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(25) The department shall not have the authority to apply or enforce any rule or regulation that would impose an undue burden on any one or more licensees or certificate holders, any qualifying patients, or act to undermine the purposes of this section.

4. Taxation and Reporting.

(1) A tax is levied upon the retail sale of marijuana for medical use sold at medical marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and paid to the department of revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri veterans' health and care fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund", which shall consist of taxes and fees collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount **not to exceed twenty percent of net deposits which is** necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies

necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri veterans commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri service officer's program, and other services for veterans approved by the commission, including, but not limited to, health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri veterans commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from, and in addition to, any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

(6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

5. Additional Patient, Physician, Caregiver and Provider Protections.

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the department, and transportation of marijuana from a medical marijuana dispensary facility to the qualifying patient's residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid qualifying patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri state board of registration for the healing arts, or its successor agency, for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider**, including individuals licensed under chapter 335 or 337 or their successor statutes,** shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any

accreditation or licensing board or commission for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A medical marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by nonemancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation [of up to six flowering marijuana plants per patient] in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

6. Legislation.

Nothing in this section shall limit the general assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section.

7. Additional Provisions.

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or entity with a transportation certification shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a nonviolent crime **[**for which he or she was not incarcerated and that is more than five years old**]**; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The department may consult with and rely on the records, advice and recommendations of the attorney general and the department of public safety, or their successor entities, in applying this subdivision.

(3) All medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility licenses, entities with medical marijuana testing facility certifications, and entities with transportation certifications shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) No medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including loss of license.

(5) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana", or a "Marijuana-Infused Product". Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty.

(6) No individual shall serve as the primary caregiver for more than **[**three**]** **ten** qualifying patients.

(7) No qualifying patient shall consume marijuana for medical use in a public place, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(8) No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and, if applicable, loss of their identification card, certificate, or license for up to one year.

(9) All qualifying patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. [Two qualifying] **Qualifying** patients **and care givers**, who [both] hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. **No shared facility may contain more than five thousand square feet of canopy space without obtaining a medical marijuana cultivation facility license.** [No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.]

(10) No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

(11) Unless allowed by the local government, no new medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality.

(12) Unless superseded by federal law or an amendment to this Constitution, a physician shall not certify a qualifying condition for a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic, or in another commonly used format. A qualifying patient must obtain a new physician certification at least annually.

(13) A physician shall not issue a certification for the medical use of marijuana for a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. [Only a parent or guardian may serve as a primary caregiver for a nonemancipated qualifying patient under the age of eighteen.] **At least one of the primary caregivers for a nonemancipated qualifying patient under the age of eighteen must be a parent or legal guardian.** Only the qualifying patient's [parent or guardian] **primary caregiver** shall purchase or possess medical marijuana for a nonemancipated qualifying patient under the age of eighteen. A [parent or guardian] **primary caregiver** shall supervise the administration of medical marijuana to a nonemancipated qualifying patient under the age of eighteen.

(14) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(15) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

8. Severability.

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

[9. Effective Date.

The provisions of this section shall become effective on December 6, 2018.]

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 13, 2021

RECEIVED
JUL 13 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Articles XIV and XIX, version 2 (2022-043)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on July 13, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

INITIATIVE PETITION

Page No: _____

22-043

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I,_____ being first duly sworn, say (print names of signers)

RECEIVED
2021 JUL 13 AM 9:04
SECRETARY OF STATE

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.						
2.						
3.						
4.						
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10.						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Notary _____

Address of Notary _____

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article XIV of the Constitution is revised by amending Section 1, and adopting one new section to be known as Article XIX, Section 2 to read as follows:

Section 1. 1. Purposes.

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the **[**limited**]** legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

2. Definitions.

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the department of health and senior services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" or "marihuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp **[**containing a cropwide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis**]** **as defined by federal law**, or commodities or products manufactured from industrial hemp **as defined by federal law**.

(6) "Marijuana-infused products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(7) "Medical marijuana cultivation facility" means a facility licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

(8) "Medical marijuana dispensary facility" means a facility licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

(9) "Medical marijuana-infused products manufacturing facility" means a facility licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

(10) "Medical marijuana testing facility" means a facility certified by the department to acquire, test, certify, and transport marijuana.

(11) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(12) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(13) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.

(14) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department. **Any health care provider licensed under the laws of the state may also serve as a primary caregiver. A qualifying patient may have up to three primary caregivers.**

(15) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory

bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(16) "Qualifying patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

3. Creating Patient Access to Medical Marijuana.

(1) In carrying out the implementation of this section, the department shall have the authority to:

(a) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and for the enforcement of this section so long as patient access is not restricted unreasonably and such rules are reasonably necessary for patient safety or to restrict access to only licensees and qualifying patients.

(c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver to ensure that no medical marijuana grown by a medical marijuana cultivation facility or manufactured by a medical marijuana-infused products manufacturing facility is sold or otherwise transferred except by a medical marijuana dispensary facility. The department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities which demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another entity with a transportation certification. The department shall develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation of marijuana. Any entity licensed or certified pursuant to this section shall be allowed to transport cannabis.

(f) The department may charge a fee not to exceed $5,000 for any certification issued pursuant to this section.

(g) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the department under this section;

[(h) Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section, which scoring shall be limited to an analysis of the following:

(i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers;

(ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income qualifying patients;

(iii) site security;

(iv) experience in a legal cannabis market;

(v) in the case of medical marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience;

(vi) the potential for positive economic impact in the site community;

(vii) in the case of medical marijuana cultivation facilities, capacity or experience with agriculture, horticulture, and health care;

(viii) in the case of medical marijuana dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;

(ix) in the case of medical marijuana-infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and

(x) maintaining competitiveness in the marijuana for medical use marketplace.

In ranking applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise regarding these factors. The department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by qualifying patients.**]**

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the medical marijuana dispensary facility, product display and examination by the qualifying patient and/or primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed or certified pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, **[**shall**]** **may** forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a

fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530;

(i) Security requirements for any premises licensed or certified pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a medical marijuana dispensary facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. The department shall not require any medical marijuana or medical marijuana-infused products to be tested more than once prior to sale.

(4) The department shall issue rules or emergency rules to provide for the certification of and standards for medical marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as medical marijuana testing facilities. No medical marijuana testing facility shall be owned by an entity under substantially common control, ownership, or management as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

(5) The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation

facilities, medical marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

(7) Within one hundred eighty days of December 6, 2018, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within two hundred ten days of December 6, 2018, the department shall begin accepting applications for such identification cards.

(8) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana cultivation facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five medical marijuana dispensary facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana-infused products manufacturing facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(11) Any applicant for a license authorized by this section may prefile their application fee with the department beginning 30 days after December 6, 2018.

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to [six flowering marijuana plants] **fifty square feet of canopy space** for the [exclusive use] **benefit** of that qualifying patient. The card

shall be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of [one hundred] **twenty-five** dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. **In no case shall any qualifying patient cultivate more than fifty square feet of canopy space regardless of the number of primary caregivers assigned to said qualifying patient.**

(13) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty-day period, provided that limit is not less than four ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the department.

(14) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty-day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. **In no case shall the total amount of medical marijuana attributed to a single qualifying patient in the possession of multiple primary caregivers exceed the limit set by the department.** Qualifying patients cultivating marijuana for medical use may possess up to a [ninety-day] **one year** supply, so long as the supply remains **secured** on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by [imprisonment of up to one year and] a fine of up to two thousand dollars.

[(15) The department may restrict the aggregate number of licenses granted for medical marijuana cultivation facilities, provided, however, that the number may not be limited to fewer than one license per every one hundred thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department may restrict the aggregate number of licenses granted for marijuana-infused products manufacturing facilities, provided, however, that the number may not be limited to fewer than one license per every seventy thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department may restrict the aggregate number of licenses granted for medical marijuana dispensary facilities, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018. Future changes to the boundaries of or the number of congressional districts shall have no impact.]

(18) The department shall begin accepting license and certification applications for medical marijuana dispensary facilities, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after December 6, 2018. Applications for licenses and certifications under this section shall be approved or denied by the department no later than one hundred fifty days after their submission. If the department fails to carry out its nondiscretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(19) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the department. The department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or

decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the department fails to deny and fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their qualifying patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(20) Primary caregivers under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(21) All marijuana for medical use sold in Missouri shall be cultivated in a licensed medical marijuana cultivation facility located in Missouri.

(22) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a medical marijuana-infused products manufacturing facility.

(23) The denial of a license, license renewal, or identification card by the department shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the department shall be subject to judicial review as provided by law.

(24) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(25) The department shall not have the authority to apply or enforce any rule or regulation that would impose an undue burden on any one or more licensees or certificate holders, any qualifying patients, or act to undermine the purposes of this section.

4. Taxation and Reporting.

(1) A tax is levied upon the retail sale of marijuana for medical use sold at medical marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and paid to the department of revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri veterans' health and care fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund", which shall consist of taxes and fees collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount **not to exceed twenty percent of net deposits which is** necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies

necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri veterans commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri service officer's program, and other services for veterans approved by the commission, including, but not limited to, health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri veterans commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from, and in addition to, any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

(6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

5. Additional Patient, Physician, Caregiver and Provider Protections.

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the department, and transportation of marijuana from a medical marijuana dispensary facility to the qualifying patient's residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid qualifying patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri state board of registration for the healing arts, or its successor agency, for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider**, including individuals licensed under chapter 335 or 337 or their successor statutes,** shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any

accreditation or licensing board or commission for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A medical marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by nonemancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation [of up to six flowering marijuana plants per patient] in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

6. Legislation.

Nothing in this section shall limit the general assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section.

7. Additional Provisions.

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or entity with a transportation certification shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a nonviolent crime **[**for which he or she was not incarcerated and that is more than five years old**]**; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The department may consult with and rely on the records, advice and recommendations of the attorney general and the department of public safety, or their successor entities, in applying this subdivision.

(3) All medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility licenses, entities with medical marijuana testing facility certifications, and entities with transportation certifications shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) No medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including loss of license.

(5) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana", or a "Marijuana-Infused Product". Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty.

(6) No individual shall serve as the primary caregiver for more than **[**three**]** **ten** qualifying patients.

(7) No qualifying patient shall consume marijuana for medical use in a public place, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(8) No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and, if applicable, loss of their identification card, certificate, or license for up to one year.

(9) All qualifying patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. [Two qualifying] **Qualifying** patients **and care givers**, who [both] hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. **No shared facility may contain more than five thousand square feet of canopy space without obtaining a medical marijuana cultivation facility license.** [No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.]

(10) No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

(11) Unless allowed by the local government, no new medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality.

(12) Unless superseded by federal law or an amendment to this Constitution, a physician shall not certify a qualifying condition for a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic, or in another commonly used format. A qualifying patient must obtain a new physician certification at least annually.

(13) A physician shall not issue a certification for the medical use of marijuana for a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. [Only a parent or guardian may serve as a primary caregiver for a nonemancipated qualifying patient under the age of eighteen.] **At least one of the primary caregivers for a nonemancipated qualifying patient under the age of eighteen must be a parent or legal guardian.** Only the qualifying patient's [parent or guardian] **primary caregiver** shall purchase or possess medical marijuana for a nonemancipated qualifying patient under the age of eighteen. A [parent or guardian] **primary caregiver** shall supervise the administration of medical marijuana to a nonemancipated qualifying patient under the age of eighteen.

(14) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(15) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

8. Severability.

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

[9. Effective Date.

The provisions of this section shall become effective on December 6, 2018.]

Section 2.

1. Purpose

This section is intended to permit the safe and legal use of cannabis by adults over the age of twenty-one and to reasonably regulate the cultivation, processing, manufacturing, and distribution of cannabis. The people of Missouri have a right to enjoy the benefits of their labor free from unreasonable regulation. This section creates a legal, regulated, and taxed cannabis industry so Missouri businesses can participate in the growing market, and the state can reduce the burden on the budget and criminal justice system caused by the prosecution and incarceration of non-violent cannabis possession and distribution.

This section is not intended to supplant the medical marijuana market. The medical marijuana market is a necessary and important part of many patients' treatment plans. Care guided by a health care provider is important when cannabis is used in an intensive and therapeutic manner.

This section is intended to make only those changes to Missouri laws that are necessary to protect consumers and businesses in the cannabis industry from civil and criminal penalties; and to allow for the responsible consumption of cannabis, combat illegal underage consumption of cannabis, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed cannabis cultivators, manufacturers, transporters, hospitality establishments, and retailers. This section is not intended to allow for the unregulated public use of cannabis; the operation of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; the use of cannabis in the workplace; or the use of cannabis by persons under twenty-one years of age.

2. Definitions.

(1) "Adult use" means the production, possession, delivery, distribution, transportation, or ingestion of cannabis or a cannabis-infused product, or drug paraphernalia used to ingest cannabis or a cannabis-infused product, by a person over the age of twenty-one for purposes other than those provided for in Article XIV Section 1.

(2) "Cannabis" means *Cannabis indica, Cannabis sativa, and Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute cannabis, hemp, or marijuana. "Cannabis" includes resin extracted from the plant and cannabis-infused products. "Cannabis" does not include industrial hemp as defined by Federal law or commodities or products manufactured from industrial hemp as defined by Federal law. "Cannabis" does not include parts of the plant that do not contain tetrahydrocannabinol (THC) or the soil or substrate in which the plants were grown.

(3) "Cannabis-infused products" means products that are infused with cannabis or an extract thereof and are intended for ingestion other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(4) "Cannabis cultivation facility" means a facility licensed by the division to acquire, cultivate, process, store, package, transport, and sell cannabis to or from a cannabis retail facility, cannabis testing facility, cannabis manufacturing facility, or another cannabis cultivation facility.

(5) “Cannabis hospitality facility” means a facility certified by the division to permit the consumption of cannabis by consumers or qualifying patients on the premises.

(6) "Cannabis manufacturing facility" means a facility licensed by the division to acquire, process, manufacture, produce, store, package, transport, and sell cannabis and paraphernalia used to ingest cannabis as provided for in this section to or from a cannabis retail facility, cannabis testing facility, cannabis cultivation facility, or another cannabis manufacturing facility.

(7) "Cannabis retail facility" means a facility licensed by the division to acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to a consumer, and acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to or from another cannabis retail facility, a cannabis testing facility, cannabis manufacturing facility, or a cannabis cultivation facility.

(8) "Cannabis testing facility" means a facility certified by the division or the division of health and senior services to acquire, test, certify, and transport cannabis.

(9) “Child-Resistant Packaging” means resealable packaging that is opaque and is designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use.

(10) “Consumer” means a natural person over the age of twenty-one.

(11) “Delivery” means the delivery of cannabis from a cannabis retail facility to a consumer.

(12) “Disqualifying felony” means any dangerous felony as defined by the laws of this state, but shall not include any felony which is based on the possession or distribution of cannabis unless such act included the distribution of cannabis to a person under the age of seventeen and more than two years younger than the person being charged.

(13) “Division” means the division of alcohol and tobacco control within the department of public safety, or its successor division.

(14) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(15) "Flowering plant" means a cannabis plant from the time it shows physical signs of flowering or budding out of the nodes of the stem through harvest.

(16) “Historically Marginalized Population” means African American and Hispanic populations.

(17) “Ingest” means any method of introducing cannabis or its chemical components into the human body including but not limited to:

(a) Ingestion of capsules, teas, oils, and other cannabis-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories; or

(e) Consuming cannabis-infused food products.

(18) “Local Government” means a county, township, city, town, village, or municipality.

(19) “Transportation” means the movement of cannabis between licensed facilities. “Transportation” includes the delivery of cannabis to a cannabis retail facility but does not include delivery of cannabis directly to a consumer.

3. Regulation

In carrying out the implementation of this section, the division shall have the authority to:

(1) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, transportation, delivery, and hospitality of cannabis for adult use in accordance with this section; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(2) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, sale, transportation, and delivery of cannabis for adult use, and for the enforcement of this section, so long as access is not restricted unreasonably and such rules are reasonably necessary for consumer safety or to restrict access to only persons over twenty-one years of age. Such rules may include provisions related to:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the division;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary;

(e) Creation of a range of administrative penalties for use by the division;

(f) Prohibition of misrepresentation and unfair practices;

(g) Regulation of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the cannabis retail facility, product display and examination by a consumer, listings in business directories including online directories and phone books, listings in cannabis-related publications and websites, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of identification cards for entities licensed or certified pursuant to this section, including a fingerprint-based criminal background check for owners, officers, and managers of such entities.

(i) Develop such forms, certificates, licenses, and applications, which may be provided in electronic or digital format, as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(j) Requirements for any entity licensed or certified by the division to create and follow security policies that prevent access to cannabis by any person under the age of twenty-one; prevent entry by any person not authorized by the division or the license holder into areas where cannabis is being cultivated, manufactured, or stored; and provide immediate notice to the entity or their designated agent of any attempt by a person to gain unauthorized or illegal access to cannabis or any area where cannabis is being cultivated, manufactured, or stored;

(k) Regulation of the storage of, warehouses for, and transportation of cannabis for adult use;

(l) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(m) The specification of acceptable forms of identification that a cannabis retail facility may accept when verifying a sale;

(n) Labeling and packaging standards that require child-resistant packaging provided that the rules may not unreasonably restrict branding and marketing information that is not misleading and is

designed to make a product recognizable and distinguish it from similar products sold by competitors;

(o) Records to be kept by licensees and the required availability of the records;

(p) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(q) The reporting and transmittal of tax payments;

(r) Authorization for the division of revenue to have access to licensing information to ensure tax payment and the effective administration of this section;

(s) Ensure an adequate supply of cannabis for medical use, including but not limited to regulations that require facilities to maintain an adequate supply of cannabis for medical use based on sales history and requiring contracts to supply cannabis for medical use to take precedence over contracts to supply cannabis for adult use; and

(t) Such other matters as are necessary for the fair, impartial, and comprehensive administration of this section.

(3) Require a seed-to-sale tracking system that tracks cannabis from either the seed or immature plant stage until the cannabis is sold to a consumer to ensure that no cannabis grown by a cannabis cultivation facility or manufactured by a cannabis manufacturing facility is sold or otherwise transferred to a consumer except by a cannabis retail facility or certified delivery entity. The division shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees. The division may coordinate with the department of health and senior services to utilize the same seed to sale tracking system as is used to track marijuana for medical use;

(4) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the division under this section.

(5) If the division fails to promulgate rules and issue licenses specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(6) The division shall not have the authority to apply or enforce any rule or regulation that would require additional fees for applicants, license holders, or certificate holders; impose an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose an undue burden if it imposes restrictions that are greater than those imposed on the manufacture and sale of alcoholic beverages.

4. Licensing

(1) Cannabis transportation and delivery certifications may be issued as follows. The division shall certify entities which demonstrate compliance with its transportation and delivery standards to transport or deliver cannabis. The division shall issue standards for the secure transportation and delivery of cannabis. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation and delivery of cannabis but shall not impose standards that make the transportation or delivery of cannabis impracticable. There shall be no additional fee for a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility to be certified for transportation or delivery.

(2) Cannabis testing certification and standards may be issued as follows. The division shall certify cannabis testing facilities which demonstrate compliance with its rules for independent testing and certification of cannabis. The division shall issue rules or emergency rules establishing standards for a cannabis independent testing and certification program for cannabis licensees and requiring licensees to test cannabis using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. However, the rules shall not

impose any requirements that make it impracticable for an otherwise qualified facility to obtain certification. The division shall not require any cannabis to be tested more than once prior to sale. No cannabis testing facility shall be owned by an entity under substantially common control, ownership, or management as a cannabis cultivation, manufacturing, or retail facility licensed under this section or a medical marijuana cultivation, manufacturing, or dispensary facility licensed under Article XIV section 1. Testing facilities licensed under Article XIV section 1 shall be automatically certified to test cannabis under the rules issued by the division for the testing of cannabis for adult use.

(3) Cannabis hospitality facility certification may be issued as follows. The division shall certify entities which demonstrate compliance with its hospitality standards to allow for the consumption of cannabis on its premises. The division shall issue standards for the safe consumption of cannabis at locations other than a private residence. The standards shall allow for the facility to sell or provide food and beverages, including alcoholic beverages. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the safe consumption of cannabis at a location other than a private residence, but shall not impose standards that make the operation of a cannabis hospitality facility impracticable.

(4) Cannabis cultivation facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to grow cannabis as a cannabis cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single location. Each facility may be limited by the division to not less than thirty thousand square feet of flowering plant canopy space. Facilities may choose to grow indoors using artificial light, outdoors, in a greenhouse utilizing a combination of artificial and natural light, or any combination of methods. The license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana cultivation facility may also apply for a cannabis cultivation facility license at the same location.

(5) Cannabis manufacturing facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana manufacturing facility may also apply for a cannabis manufacturing facility license at the same location.

(6) Cannabis retail facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis retail facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana dispensary facility may also apply for a cannabis retail facility license at the same location.

(7) The division may charge an application or renewal fee for each license type not to exceed two thousand five hundred dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency. Applications re-submitted after a denial shall not be charged an additional application fee, but may be charged a fee of not more than five hundred dollars for a re-submitted application.

(8) The division may charge a certification and renewal fee for each certification type not to exceed one thousand dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency.

(9) An entity may apply for a reduced application or renewal fee. The division shall develop rules to determine the eligibility of an applicant for a reduced fee. The rules shall include consideration for entities:

(a) locating in an area that has an unemployment rate above the national average;

(b) locating in an area that has been designated as an Economic Disadvantaged Zone by the US Division of Commerce;

(c) owned and operated by individuals in protected classes;

(d) owned and operated by veterans;

(e) owned or operated by an entity that was previously denied a medical marijuana facility license based on application score; or

(f) any other factors that would promote the inclusion of small and locally owned businesses and individuals in historically marginalized groups.

(10) All owners, officers, managers, and employees of entities licensed or certified pursuant to this section, shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, may forward the fingerprints to the Federal Bureau of Investigation(FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530. Notwithstanding the provisions of section 610.120, all records related to any criminal history information shall be available to the division. The criminal background check may be requested by the applicant or employer and performed up to ninety days prior to the submission of an application for license, certification, or employment.

(11) The division shall maintain the confidentiality of information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any customer information, or any other records that are exempt from public inspection pursuant to state or federal law. Such information may be used only for a purpose authorized by this section.

(12) The division shall begin accepting license and certification applications not later than August 1, 2023. In order to facilitate the initial costs of regulation, the division may accept application fees beginning January 15, 2023 and shall apply such fees to applications submitted after August 1, 2023. Applications for licenses and certifications under this section shall be approved or denied by the division no later than ninety days after their submission. If the division fails to carry out its nondiscretionary duty to approve or deny an application within ninety days, the application or certification is deemed granted for one year or until revoked for good cause.

(13) There shall be no limit on the number of facility licenses or certifications issued by the division.

(14) Applications for any facility license shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and site security plan;

(ii) A seed to sale tracking system;

(iii) A method for verifying the age or medical marijuana status of any consumer;

(iv) Employment policies that are non-discriminatory and require fingerprint background checks prior to beginning employment at the facility;

(v) A plan to dispose of excess product in the event of the facility closing which may be satisfied by a plan to sell or donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where un-packaged cannabis flower or cannabis-infused products are being prepared or packaged;

(vii) Labeling and packaging policies that are not misleading, are not likely to be confused with non-cannabis containing products, and are designed to make a product recognizable and distinguish it from similar products sold by competitors;

(viii) Record retention policy that allows for the inspection of records of purchases and sales for at least the preceding twenty-four months; and

(ix) Certification that any contracts to supply cannabis for medical use will take precedence over contracts to supply cannabis for adult use.

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(d) The applicant has verified its anticipated location is properly zoned and not within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church; and

(e) The applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(15) Applications for any transportation, delivery, testing, or hospitality certification shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and security plan suitable to the type of certification;

(ii) For testing certifications, an inventory tracking system;

(iii) For hospitality and delivery certifications, a method for verifying the age or medical marijuana patient status of any consumer;

(iv) Employment policies that are non-discriminatory;

(v) A plan to dispose of unused or undelivered product which may be satisfied by a plan to donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where cannabis flower or cannabis-infused products are being tested or consumed;

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(e) For testing facilities, the applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(16) A single entity may hold multiple licenses or certifications and may operate under such licenses at a single location. However, a cannabis hospitality facility certification shall not be issued for a location in which a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility is in operation.

(17) Facilities licensed under Article XIV Section 1 may also apply for and be granted licenses and certifications under this section.

5. Taxation and Funding

(1) Application and renewal fees collected by the division shall be used for the administration of this section. If such fees are insufficient to provide for the administration of this section, the division may apply to the Missouri Economic Recovery and Growth Fund for a cash operating transfer which shall be repaid as provided by law.

(2) A tax is hereby levied upon the retail sale of cannabis for adult use sold at cannabis retail facilities within the state.

(a) The tax shall be at a rate of seven and one-half percent of the retail price.

(b) The tax shall be collected by each licensed cannabis retail facility and paid to the department of revenue. After retaining no more than two percent of the amount collected for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri Economic Recovery and Growth Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(c) Such tax shall not be levied on wholesale sales of cannabis for adult use or any cannabis which is transferred from a cannabis retail facility to a cannabis cultivation or manufacturing facility.

(3) There is hereby created in the state treasury the "Missouri Economic Recovery and Growth Fund", which shall consist of taxes collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the division in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) One-third of all monies collected shall be distributed to not-for-profit organizations, state agencies, and political subdivisions to provide free legal assistance to individuals seeking to expunge a criminal record, or to increase staffing levels to process expungement requests in a timely fashion; and

(b) Two-thirds of all monies collected shall be transferred to the general revenue fund.

(4) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing funding.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of cannabis for adult use.

(6) The fees and taxes provided for in this Article XIV, Section 2 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) A local government may impose a retail sales taxes on the retail sale of cannabis for adult use. Such taxes shall be imposed in the same way as provided for other retail sales taxes in law. Local taxes imposed on the retail sale of cannabis for adult use shall not exceed those imposed by the same jurisdiction on the retail sale of alcoholic beverages or other retail sales whichever is higher.

(8) Any consumer who presents a duly issued medical marijuana patient identification card or a medical marijuana primary caregiver identification card shall not pay the sales tax provided for in this section, but shall pay the sales tax required for medical marijuana sales in Article XIV Section 1.

6. Public Safety

(1) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of cannabis.

(2) A criminal conviction for an intoxication related offense shall require a showing that the person was actually impaired at the time the offense occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show actual impairment.

(3) An allegation of negligence while under the influence of cannabis shall require a showing that the person was actually under the influence of cannabis at the time the negligence occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show the person was actually under the influence.

(3) A consumer may cultivate up to twenty-five square feet of flowering canopy of cannabis for adult use in any space owned or leased by said consumer. The space in which cannabis for adult use is being cultivated must be secured against entry by unauthorized individuals including individuals under twenty-one years of age. Such cannabis shall not be provided for sale to any individual but may be sold or donated through the compassionate care program established in this section.

(4) A consumer may possess the following amounts of cannabis at any one time:

(a) up to eight ounces of dried unprocessed flower;

(b) up to twenty-eight grams of concentrated resin or extract; and

(c) up to four thousand milligrams of tetrahydrocannabinol in cannabis-infused products.

(5) No individual who is under twenty-one years of age may possess cannabis in any amount unless such individual is in possession of a medical marijuana patient or primary caregiver license issued pursuant to Article XIV Section 1.

(6) The legislature may pass criminal statute related to the possession, delivery, or distribution of cannabis in excess of the limits provided for in this section without the appropriate license. However, in no case shall the possession, delivery, or distribution of cannabis in an amount less than two times the limits provided for in this section be deemed a felony unless such delivery or distribution was to a person under twenty-one years of age. Any existing laws which criminalize possession, delivery, or distribution of cannabis in amounts less than the limits provided for in this section are hereby declared null and void unless such delivery or distribution was to a person under twenty-one years of age.

(7) Any individual convicted for a crime, other than a dangerous felony or the delivery or distribution to a person under seventeen years of age and more than two years younger than the person being charged, may file for release from custody and expungement of their criminal record in the jurisdiction in which the conviction occurred. Such release from custody shall be expedited and shall be granted unless the person seeking release is incarcerated for additional crimes. Such expungement shall be granted as a matter of right and shall not affect an individual's ability to seek expungement of other offenses under the laws of this state. The supreme court shall make available to the public free of charge forms for a release from custody or the expungement of such offenses. The filing fee for a motion or new cause of action under this subsection shall be no more than the filing fee for actions brought in the small claims court of the same jurisdiction.

(8) The presence or the smell of cannabis shall not be sufficient probable cause for a law enforcement officer to detain or search a person for reasons other than a suspected intoxication offense, or to impound or search the vehicle, residence, or other property of a consumer. Any search or arrest warrant issued for violations of this section or other cannabis laws not in conflict with this section shall require evidence of the violation and shall not be issued on the basis of the presence of cannabis alone. No search or arrest warrant shall be issued based on violations of this section or other cannabis laws not in conflict with this section that would allow law enforcement officers to enter a premises without first knocking and announcing their presence and purpose.

(9) The division shall develop in coordination with the Missouri department of health and senior services a compassionate care program through which cannabis may be tested and sold or donated to a cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility by any consumer, cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility.

Any facility that receives excess cannabis through such program must make any cannabis received through the program available free of charge to qualifying patients and primary caregivers who meet financial need and health necessity criteria. Each facility may develop its own criteria, but in no case shall cannabis be provided free of charge to any individual who is not in possession of a medical marijuana patient or primary caregiver identification card.

7. Local Control

(1) Unless allowed by the local government, no new cannabis cultivation facility, cannabis testing facility, cannabis retail facility, or cannabis manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. A local government may allow for a location closer than one thousand feet but may not impose any restriction greater than one thousand feet.

(2) No local government shall prohibit cannabis cultivation facilities, cannabis testing facilities, cannabis manufacturing facilities, or cannabis retail facilities, or entities with a transportation or hospitality certification from operating within the locality either expressly or through the enactment of ordinances, including but not limited to zoning ordinances, or regulations that make their operation unduly burdensome in the locality. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality so long as such ordinances or regulations are not more restrictive than those imposed on the manufacture or sale of alcoholic beverages.

(3) Local governments shall develop and adopt ordinances and policies related to cannabis facilities and certificate holders no later than June 30, 2023. The local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose excessive fees or an undue burden if it imposes fees higher than or restrictions greater than those imposed on the manufacture and sale of alcoholic beverages.

(4) If the local government fails to adopt ordinances and policies specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the location and licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(3) Local governments may require cannabis cultivation facilities, cannabis manufacturing facilities, cannabis retail facilities, cannabis transportation or delivery certificate holders, cannabis hospitality certificate holders to be licensed businesses under the local ordinances. However no local government shall require an additional fee to be paid or additional special license to be acquired by a cannabis license or certificate holder that is not required for other businesses in the jurisdiction.

(4) A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality so long as such penalties are not greater than those imposed on the manufacture or sale of alcoholic beverages.

8. Other Provisions

(1) All cannabis for adult use sold in Missouri shall be cultivated in a licensed cultivation facility located in Missouri or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis.

(2) All cannabis-infused products for adult use sold in the state of Missouri shall be manufactured in a licensed manufacturing facility or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis-infused products.

(3) A cannabis testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary

action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the adult use of cannabis consistent with this section and otherwise meeting legal standards of professional conduct.

(4) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for being employed by, contracting with, or providing legal assistance to facilities licensed or certified under this section, entities applying for licensing or certification under this section, or any individual seeking legal advice related to activity that is no longer subject to civil or criminal penalties under state law pursuant to this section.

(5) Except as provided for by this section, actions and conduct by consumers, facilities licensed or certified under this section, or the employees, contractors, vendors, or agents of facilities licensed or certified under this section, as permitted by this section and in compliance with division regulations and other provisions of law, shall not be subject to criminal or civil liability or sanctions under Missouri law including but not limited to disciplinary action against a professional license, denial of public assistance programs or public services, or denial of a license to operate a vehicle, watercraft, or other equipment.

(6) It is the public policy of the state of Missouri that contracts related to cannabis for adult use that are entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

(7) No mandatory reporter under the laws of this state shall be required to report the adult use of cannabis by a parent or prospective parent unless such use is in violation of this section or the parent is actively endangering the health and safety of a child. A prospective foster or adoptive parent shall not be discriminated against for their use of cannabis for non-medical purposes unless such use is in violation of this section or other provisions of law not in conflict with this section.

(8) The denial of a license, license renewal, or identification card by the division shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the division shall be subject to judicial review as provided by law.

(9) No elected official shall interfere directly or indirectly with the division's obligations and activities under this section.

9. Severability

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 13, 2021

RECEIVED
JUL 13 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Articles XIV and XIX, version 1 (2022-042)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on July 13, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County: _____

22-042

INITIATIVE PETITION

Page No: _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I,_____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.						
2.						
3.						
4.						
5.						
6.						
7.						
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Sec. of State

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

Subscribed and sworn to before me this _____ day of _____, A.D.

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Signature of Notary _____

Address of Notary _____

(Seal)

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Section A. Article XIV of the Constitution is revised by amending Section 1, and adopting one new section to be known as Article XIX, Section 2 to read as follows:

Section 1. 1. Purposes.

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the **[**limited**]** legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

2. Definitions.

(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the department of health and senior services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" or "marihuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp **[**containing a cropwide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis**]** **as defined by federal law**, or commodities or products manufactured from industrial hemp **as defined by federal law**.

(6) "Marijuana-infused products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(7) "Medical marijuana cultivation facility" means a facility licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

(8) "Medical marijuana dispensary facility" means a facility licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

(9) "Medical marijuana-infused products manufacturing facility" means a facility licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

(10) "Medical marijuana testing facility" means a facility certified by the department to acquire, test, certify, and transport marijuana.

(11) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(12) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(13) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.

(14) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department. **Any health care provider licensed under the laws of the state may also serve as a primary caregiver. A qualifying patient may have up to three primary caregivers.**

(15) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory

bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(16) "Qualifying patient" means a Missouri resident diagnosed with at least one qualifying medical condition.

3. Creating Patient Access to Medical Marijuana.

(1) In carrying out the implementation of this section, the department shall have the authority to:

(a) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and for the enforcement of this section so long as patient access is not restricted unreasonably and such rules are reasonably necessary for patient safety or to restrict access to only licensees and qualifying patients.

(c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver to ensure that no medical marijuana grown by a medical marijuana cultivation facility or manufactured by a medical marijuana-infused products manufacturing facility is sold or otherwise transferred except by a medical marijuana dispensary facility. The department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities which demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another entity with a transportation certification. The department shall develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation of marijuana. Any entity licensed or certified pursuant to this section shall be allowed to transport cannabis.

(f) The department may charge a fee not to exceed $5,000 for any certification issued pursuant to this section.

(g) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the department under this section;

[(h) Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section, which scoring shall be limited to an analysis of the following:

(i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers;

(ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income qualifying patients;

(iii) site security;

(iv) experience in a legal cannabis market;

(v) in the case of medical marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience;

(vi) the potential for positive economic impact in the site community;

(vii) in the case of medical marijuana cultivation facilities, capacity or experience with agriculture, horticulture, and health care;

(viii) in the case of medical marijuana dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;

(ix) in the case of medical marijuana-infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and

(x) maintaining competitiveness in the marijuana for medical use marketplace.

In ranking applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise regarding these factors. The department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by qualifying patients.**]**

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the medical marijuana dispensary facility, product display and examination by the qualifying patient and/or primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed or certified pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, **[**shall**]** **may** forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a

fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530;

(i) Security requirements for any premises licensed or certified pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a medical marijuana dispensary facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. The department shall not require any medical marijuana or medical marijuana-infused products to be tested more than once prior to sale.

(4) The department shall issue rules or emergency rules to provide for the certification of and standards for medical marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as medical marijuana testing facilities. No medical marijuana testing facility shall be owned by an entity under substantially common control, ownership, or management as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

(5) The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation

facilities, medical marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

(7) Within one hundred eighty days of December 6, 2018, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within two hundred ten days of December 6, 2018, the department shall begin accepting applications for such identification cards.

(8) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana cultivation facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five medical marijuana dispensary facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana-infused products manufacturing facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(11) Any applicant for a license authorized by this section may prefile their application fee with the department beginning 30 days after December 6, 2018.

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to [six flowering marijuana plants] **fifty square feet of canopy space** for the [exclusive use] **benefit** of that qualifying patient. The card

shall be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of [one hundred] **twenty-five** dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. **In no case shall any qualifying patient cultivate more than fifty square feet of canopy space regardless of the number of primary caregivers assigned to said qualifying patient.**

(13) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty-day period, provided that limit is not less than four ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the department.

(14) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty-day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient. **In no case shall the total amount of medical marijuana attributed to a single qualifying patient in the possession of multiple primary caregivers exceed the limit set by the department.** Qualifying patients cultivating marijuana for medical use may possess up to a [ninety-day] **one year** supply, so long as the supply remains **secured** on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by [imprisonment of up to one year and] a fine of up to two thousand dollars.

[(15) The department may restrict the aggregate number of licenses granted for medical marijuana cultivation facilities, provided, however, that the number may not be limited to fewer than one license per every one hundred thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department may restrict the aggregate number of licenses granted for marijuana-infused products manufacturing facilities, provided, however, that the number may not be limited to fewer than one license per every seventy thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department may restrict the aggregate number of licenses granted for medical marijuana dispensary facilities, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018. Future changes to the boundaries of or the number of congressional districts shall have no impact.]

(18) The department shall begin accepting license and certification applications for medical marijuana dispensary facilities, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after December 6, 2018. Applications for licenses and certifications under this section shall be approved or denied by the department no later than one hundred fifty days after their submission. If the department fails to carry out its nondiscretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(19) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the department. The department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or

decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the department fails to deny and fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their qualifying patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(20) Primary caregivers under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty-five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(21) All marijuana for medical use sold in Missouri shall be cultivated in a licensed medical marijuana cultivation facility located in Missouri.

(22) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a medical marijuana-infused products manufacturing facility.

(23) The denial of a license, license renewal, or identification card by the department shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the department shall be subject to judicial review as provided by law.

(24) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(25) The department shall not have the authority to apply or enforce any rule or regulation that would impose an undue burden on any one or more licensees or certificate holders, any qualifying patients, or act to undermine the purposes of this section.

4. Taxation and Reporting.

(1) A tax is levied upon the retail sale of marijuana for medical use sold at medical marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and paid to the department of revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri veterans' health and care fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund", which shall consist of taxes and fees collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount **not to exceed twenty percent of net deposits which is** necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies

necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

(b) Next, the remainder of such funds shall be transferred to the Missouri veterans commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri service officer's program, and other services for veterans approved by the commission, including, but not limited to, health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri veterans commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from, and in addition to, any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

(6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

5. Additional Patient, Physician, Caregiver and Provider Protections.

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the department, and transportation of marijuana from a medical marijuana dispensary facility to the qualifying patient's residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid qualifying patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri state board of registration for the healing arts, or its successor agency, for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider**, including individuals licensed under chapter 335 or 337 or their successor statutes,** shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any

accreditation or licensing board or commission for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A medical marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by nonemancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation [of up to six flowering marijuana plants per patient] in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

6. Legislation.

Nothing in this section shall limit the general assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section.

7. Additional Provisions.

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or entity with a transportation certification shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a nonviolent crime **[**for which he or she was not incarcerated and that is more than five years old**]**; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The department may consult with and rely on the records, advice and recommendations of the attorney general and the department of public safety, or their successor entities, in applying this subdivision.

(3) All medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility licenses, entities with medical marijuana testing facility certifications, and entities with transportation certifications shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) No medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including loss of license.

(5) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana", or a "Marijuana-Infused Product". Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty.

(6) No individual shall serve as the primary caregiver for more than **[**three**]** **ten** qualifying patients.

(7) No qualifying patient shall consume marijuana for medical use in a public place, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(8) No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and, if applicable, loss of their identification card, certificate, or license for up to one year.

(9) All qualifying patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. [Two qualifying] **Qualifying** patients **and care givers**, who [both] hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. **No shared facility may contain more than five thousand square feet of canopy space without obtaining a medical marijuana cultivation facility license.** [No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.]

(10) No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

(11) Unless allowed by the local government, no new medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality.

(12) Unless superseded by federal law or an amendment to this Constitution, a physician shall not certify a qualifying condition for a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic, or in another commonly used format. A qualifying patient must obtain a new physician certification at least annually.

(13) A physician shall not issue a certification for the medical use of marijuana for a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. [Only a parent or guardian may serve as a primary caregiver for a nonemancipated qualifying patient under the age of eighteen.] **At least one of the primary caregivers for a nonemancipated qualifying patient under the age of eighteen must be a parent or legal guardian.** Only the qualifying patient's [parent or guardian] **primary caregiver** shall purchase or possess medical marijuana for a nonemancipated qualifying patient under the age of eighteen. A [parent or guardian] **primary caregiver** shall supervise the administration of medical marijuana to a nonemancipated qualifying patient under the age of eighteen.

(14) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(15) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

8. Severability.

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

[9. Effective Date.

The provisions of this section shall become effective on December 6, 2018.]

Section 2.

1. Purpose

This section is intended to permit the safe and legal use of cannabis by adults over the age of twenty-one and to reasonably regulate the cultivation, processing, manufacturing, and distribution of cannabis. The people of Missouri have a right to enjoy the benefits of their labor free from unreasonable regulation. This section creates a legal, regulated, and taxed cannabis industry so Missouri businesses can participate in the growing market, and the state can reduce the burden on the budget and criminal justice system caused by the prosecution and incarceration of non-violent cannabis possession and distribution.

This section is not intended to supplant the medical marijuana market. The medical marijuana market is a necessary and important part of many patients' treatment plans. Care guided by a health care provider is important when cannabis is used in an intensive and therapeutic manner.

This section is intended to make only those changes to Missouri laws that are necessary to protect consumers and businesses in the cannabis industry from civil and criminal penalties; and to allow for the responsible consumption of cannabis, combat illegal underage consumption of cannabis, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed cannabis cultivators, manufacturers, transporters, hospitality establishments, and retailers. This section is not intended to allow for the unregulated public use of cannabis; the operation of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; the use of cannabis in the workplace; or the use of cannabis by persons under twenty-one years of age.

2. Definitions.

(1) "Adult use" means the production, possession, delivery, distribution, transportation, or ingestion of cannabis or a cannabis-infused product, or drug paraphernalia used to ingest cannabis or a cannabis-infused product, by a person over the age of twenty-one for purposes other than those provided for in Article XIV Section 1.

(2) "Cannabis" means *Cannabis indica, Cannabis sativa, and Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute cannabis, hemp, or marijuana. "Cannabis" includes resin extracted from the plant and cannabis-infused products. "Cannabis" does not include industrial hemp as defined by Federal law or commodities or products manufactured from industrial hemp as defined by Federal law. "Cannabis" does not include parts of the plant that do not contain tetrahydrocannabinol (THC) or the soil or substrate in which the plants were grown.

(3) "Cannabis-infused products" means products that are infused with cannabis or an extract thereof and are intended for ingestion other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(4) "Cannabis cultivation facility" means a facility licensed by the division to acquire, cultivate, process, store, package, transport, and sell cannabis to or from a cannabis retail facility, cannabis testing facility, cannabis manufacturing facility, or another cannabis cultivation facility.

(5) “Cannabis hospitality facility” means a facility certified by the division to permit the consumption of cannabis by consumers or qualifying patients on the premises.

(6) "Cannabis manufacturing facility" means a facility licensed by the division to acquire, process, manufacture, produce, store, package, transport, and sell cannabis and paraphernalia used to ingest cannabis as provided for in this section to or from a cannabis retail facility, cannabis testing facility, cannabis cultivation facility, or another cannabis manufacturing facility.

(7) "Cannabis retail facility" means a facility licensed by the division to acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to a consumer, and acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to or from another cannabis retail facility, a cannabis testing facility, cannabis manufacturing facility, or a cannabis cultivation facility.

(8) "Cannabis testing facility" means a facility certified by the division or the division of health and senior services to acquire, test, certify, and transport cannabis.

(9) “Child-Resistant Packaging” means resealable packaging that is opaque and is designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use.

(10) “Consumer” means a natural person over the age of twenty-one.

(11) “Delivery” means the delivery of cannabis from a cannabis retail facility to a consumer.

(12) “Disqualifying felony” means any dangerous felony as defined by the laws of this state, but shall not include any felony which is based on the possession or distribution of cannabis unless such act included the distribution of cannabis to a person under the age of seventeen and more than two years younger than the person being charged.

(13) “Division” means the division of alcohol and tobacco control within the department of public safety, or its successor division.

(14) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(15) "Flowering plant" means a cannabis plant from the time it shows physical signs of flowering or budding out of the nodes of the stem through harvest.

(16) “Historically Marginalized Population” means African American and Hispanic populations.

(17) “Ingest” means any method of introducing cannabis or its chemical components into the human body including but not limited to:

(a) Ingestion of capsules, teas, oils, and other cannabis-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories; or

(e) Consuming cannabis-infused food products.

(18) “Local Government” means a county, township, city, town, village, or municipality.

(19) “Transportation” means the movement of cannabis between licensed facilities. “Transportation” includes the delivery of cannabis to a cannabis retail facility but does not include delivery of cannabis directly to a consumer.

3. Regulation

In carrying out the implementation of this section, the division shall have the authority to:

(1) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, transportation, delivery, and hospitality of cannabis for adult use in accordance with this section; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(2) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, sale, transportation, and delivery of cannabis for adult use, and for the enforcement of this section, so long as access is not restricted unreasonably and such rules are reasonably necessary for consumer safety or to restrict access to only persons over twenty-one years of age. Such rules may include provisions related to:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the division;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary;

(e) Creation of a range of administrative penalties for use by the division;

(f) Prohibition of misrepresentation and unfair practices;

(g) Regulation of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the cannabis retail facility, product display and examination by a consumer, listings in business directories including online directories and phone books, listings in cannabis-related publications and websites, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of identification cards for entities licensed or certified pursuant to this section, including a fingerprint-based criminal background check for owners, officers, and managers of such entities.

(i) Develop such forms, certificates, licenses, and applications, which may be provided in electronic or digital format, as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(j) Requirements for any entity licensed or certified by the division to create and follow security policies that prevent access to cannabis by any person under the age of twenty-one; prevent entry by any person not authorized by the division or the license holder into areas where cannabis is being cultivated, manufactured, or stored; and provide immediate notice to the entity or their designated agent of any attempt by a person to gain unauthorized or illegal access to cannabis or any area where cannabis is being cultivated, manufactured, or stored;

(k) Regulation of the storage of, warehouses for, and transportation of cannabis for adult use;

(l) Sanitary requirements for, including, but not limited to, the preparation of cannabis-infused products;

(m) The specification of acceptable forms of identification that a cannabis retail facility may accept when verifying a sale;

(n) Labeling and packaging standards that require child-resistant packaging provided that the rules may not unreasonably restrict branding and marketing information that is not misleading and is

designed to make a product recognizable and distinguish it from similar products sold by competitors;

(o) Records to be kept by licensees and the required availability of the records;

(p) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(q) The reporting and transmittal of tax payments;

(r) Authorization for the division of revenue to have access to licensing information to ensure tax payment and the effective administration of this section;

(s) Ensure an adequate supply of cannabis for medical use, including but not limited to regulations that require facilities to maintain an adequate supply of cannabis for medical use based on sales history and requiring contracts to supply cannabis for medical use to take precedence over contracts to supply cannabis for adult use; and

(t) Such other matters as are necessary for the fair, impartial, and comprehensive administration of this section.

(3) Require a seed-to-sale tracking system that tracks cannabis from either the seed or immature plant stage until the cannabis is sold to a consumer to ensure that no cannabis grown by a cannabis cultivation facility or manufactured by a cannabis manufacturing facility is sold or otherwise transferred to a consumer except by a cannabis retail facility or certified delivery entity. The division shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees. The division may coordinate with the department of health and senior services to utilize the same seed to sale tracking system as is used to track marijuana for medical use;

(4) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the division under this section.

(5) If the division fails to promulgate rules and issue licenses specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(6) The division shall not have the authority to apply or enforce any rule or regulation that would require additional fees for applicants, license holders, or certificate holders; impose an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose an undue burden if it imposes restrictions that are greater than those imposed on the manufacture and sale of alcoholic beverages.

4. Licensing

(1) Cannabis transportation and delivery certifications may be issued as follows. The division shall certify entities which demonstrate compliance with its transportation and delivery standards to transport or deliver cannabis. The division shall issue standards for the secure transportation and delivery of cannabis. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation and delivery of cannabis but shall not impose standards that make the transportation or delivery of cannabis impracticable. There shall be no additional fee for a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility to be certified for transportation or delivery.

(2) Cannabis testing certification and standards may be issued as follows. The division shall certify cannabis testing facilities which demonstrate compliance with its rules for independent testing and certification of cannabis. The division shall issue rules or emergency rules establishing standards for a cannabis independent testing and certification program for cannabis licensees and requiring licensees to test cannabis using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. However, the rules shall not

impose any requirements that make it impracticable for an otherwise qualified facility to obtain certification. The division shall not require any cannabis to be tested more than once prior to sale. No cannabis testing facility shall be owned by an entity under substantially common control, ownership, or management as a cannabis cultivation, manufacturing, or retail facility licensed under this section or a medical marijuana cultivation, manufacturing, or dispensary facility licensed under Article XIV section 1. Testing facilities licensed under Article XIV section 1 shall be automatically certified to test cannabis under the rules issued by the division for the testing of cannabis for adult use.

(3) Cannabis hospitality facility certification may be issued as follows. The division shall certify entities which demonstrate compliance with its hospitality standards to allow for the consumption of cannabis on its premises. The division shall issue standards for the safe consumption of cannabis at locations other than a private residence. The standards shall allow for the facility to sell or provide food and beverages, including alcoholic beverages. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the safe consumption of cannabis at a location other than a private residence, but shall not impose standards that make the operation of a cannabis hospitality facility impracticable.

(4) Cannabis cultivation facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to grow cannabis as a cannabis cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single location. Each facility may be limited by the division to not less than thirty thousand square feet of flowering plant canopy space. Facilities may choose to grow indoors using artificial light, outdoors, in a greenhouse utilizing a combination of artificial and natural light, or any combination of methods. The license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana cultivation facility may also apply for a cannabis cultivation facility license at the same location.

(5) Cannabis manufacturing facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana manufacturing facility may also apply for a cannabis manufacturing facility license at the same location.

(6) Cannabis retail facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis retail facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana dispensary facility may also apply for a cannabis retail facility license at the same location.

(7) The division may charge an application or renewal fee for each license type not to exceed two thousand five hundred dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency. Applications re-submitted after a denial shall not be charged an additional application fee, but may be charged a fee of not more than five hundred dollars for a re-submitted application.

(8) The division may charge a certification and renewal fee for each certification type not to exceed one thousand dollars. Application and renewal fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Division of Labor, or its successor agency.

(9) An entity may apply for a reduced application or renewal fee. The division shall develop rules to determine the eligibility of an applicant for a reduced fee. The rules shall include consideration for entities:

(a) locating in an area that has an unemployment rate above the national average;

(b) locating in an area that has been designated as an Economic Disadvantaged Zone by the US Division of Commerce;

(c) owned and operated by individuals in protected classes;

(d) owned and operated by veterans;

(e) owned or operated by an entity that was previously denied a medical marijuana facility license based on application score; or

(f) any other factors that would promote the inclusion of small and locally owned businesses and individuals in historically marginalized groups.

(10) All owners, officers, managers, and employees of entities licensed or certified pursuant to this section, shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, may forward the fingerprints to the Federal Bureau of Investigation(FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530. Notwithstanding the provisions of section 610.120, all records related to any criminal history information shall be available to the division. The criminal background check may be requested by the applicant or employer and performed up to ninety days prior to the submission of an application for license, certification, or employment.

(11) The division shall maintain the confidentiality of information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any customer information, or any other records that are exempt from public inspection pursuant to state or federal law. Such information may be used only for a purpose authorized by this section.

(12) The division shall begin accepting license and certification applications not later than August 1, 2023. In order to facilitate the initial costs of regulation, the division may accept application fees beginning January 15, 2023 and shall apply such fees to applications submitted after August 1, 2023. Applications for licenses and certifications under this section shall be approved or denied by the division no later than ninety days after their submission. If the division fails to carry out its nondiscretionary duty to approve or deny an application within ninety days, the application or certification is deemed granted for one year or until revoked for good cause.

(13) There shall be no limit on the number of facility licenses or certifications issued by the division.

(14) Applications for any facility license shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and site security plan;

(ii) A seed to sale tracking system;

(iii) A method for verifying the age or medical marijuana status of any consumer;

(iv) Employment policies that are non-discriminatory and require fingerprint background checks prior to beginning employment at the facility;

(v) A plan to dispose of excess product in the event of the facility closing which may be satisfied by a plan to sell or donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where un-packaged cannabis flower or cannabis-infused products are being prepared or packaged;

(vii) Labeling and packaging policies that are not misleading, are not likely to be confused with non-cannabis containing products, and are designed to make a product recognizable and distinguish it from similar products sold by competitors;

(viii) Record retention policy that allows for the inspection of records of purchases and sales for at least the preceding twenty-four months; and

(ix) Certification that any contracts to supply cannabis for medical use will take precedence over contracts to supply cannabis for adult use.

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(d) The applicant has verified its anticipated location is properly zoned and not within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church; and

(e) The applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(15) Applications for any transportation, delivery, testing, or hospitality certification shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and security plan suitable to the type of certification;

(ii) For testing certifications, an inventory tracking system;

(iii) For hospitality and delivery certifications, a method for verifying the age or medical marijuana patient status of any consumer;

(iv) Employment policies that are non-discriminatory;

(v) A plan to dispose of unused or undelivered product which may be satisfied by a plan to donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where cannabis flower or cannabis-infused products are being tested or consumed;

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(e) For testing facilities, the applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(16) A single entity may hold multiple licenses or certifications and may operate under such licenses at a single location. However, a cannabis hospitality facility certification shall not be issued for a location in which a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility is in operation.

(17) Facilities licensed under Article XIV Section 1 may also apply for and be granted licenses and certifications under this section.

5. Taxation and Funding

(1) Application and renewal fees collected by the division shall be used for the administration of this section. If such fees are insufficient to provide for the administration of this section, the division may apply to the Missouri Economic Recovery and Growth Fund for a cash operating transfer which shall be repaid as provided by law.

(2) A tax is hereby levied upon the retail sale of cannabis for adult use sold at cannabis retail facilities within the state.

(a) The tax shall be at a rate of seven and one-half percent of the retail price.

(b) The tax shall be collected by each licensed cannabis retail facility and paid to the department of revenue. After retaining no more than two percent of the amount collected for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri Economic Recovery and Growth Fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(c) Such tax shall not be levied on wholesale sales of cannabis for adult use or any cannabis which is transferred from a cannabis retail facility to a cannabis cultivation or manufacturing facility.

(3) There is hereby created in the state treasury the "Missouri Economic Recovery and Growth Fund", which shall consist of taxes collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the division in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) One-third of all monies collected shall be distributed to state agencies and political subdivisions for:

(i) the provision and expansion of internet access as a public utility;

(ii) the repair and improvement of existing roads and bridges; or

(iii) the repair and improvement of other public utility services including but not limited to water, sewer, and electricity; and

(b) One-third of all monies collected shall be distributed by the division, with the input of an advisory board at least one third of whose members are health care professionals with experience in the medical use of cannabis, through grants to state agencies, educational institutions, and not-for-profit organizations to:

(i) increase access to evidence-based low-barrier drug addiction treatment; to support drug overdose prevention and reversal education;

(ii) support job placement, housing, and ongoing counseling for those with substance abuse disorders; or

(iii) to provide free legal assistance to individuals seeking to expunge a criminal record or who have been charged with a drug-related crime;

(iv) provide funding for research into the effects of cannabis on the human body, detection of active tetrahydrocannabinol (THC) levels in the human body, and the potential uses of cannabis in psychiatric or substance abuse treatment; and

(c) One-third of all monies collected shall be distributed by the division through grants to not-for-profit organizations that:

(i) provide zero percent interest rate loans or grants to small businesses that are owned by individuals who are members of a historically marginalized population; or

(ii) provide cannabis industry training programs for incarcerated or formerly incarcerated individuals.

(4) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing funding.

(5) The unexpended balance existing in the Missouri Economic Recovery and Growth Fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund until the end of the 2028 fiscal year.

(6) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of cannabis for adult use.

(7) The fees and taxes provided for in this Article XIV, Section 2 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(8) A local government may impose a retail sales taxes on the retail sale of cannabis for adult use. Such taxes shall be imposed in the same way as provided for other retail sales taxes in law. Local taxes imposed on the retail sale of cannabis for adult use shall not exceed those imposed by the same jurisdiction on the retail sale of alcoholic beverages or other retail sales whichever is higher.

(9) Any consumer who presents a duly issued medical marijuana patient identification card or a medical marijuana primary caregiver identification card shall not pay the sales tax provided for in this section, but shall pay the sales tax required for medical marijuana sales in Article XIV Section 1.

6. Public Safety

(1) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of cannabis.

(2) A criminal conviction for an intoxication related offense shall require a showing that the person was actually impaired at the time the offense occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show actual impairment.

(3) An allegation of negligence while under the influence of cannabis shall require a showing that the person was actually under the influence of cannabis at the time the negligence occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show the person was actually under the influence.

(3) A consumer may cultivate up to twenty-five square feet of flowering canopy of cannabis for adult use in any space owned or leased by said consumer. The space in which cannabis for adult use is being cultivated must be secured against entry by unauthorized individuals including individuals under twenty-one years of age. Such cannabis shall not be provided for sale to any individual but may be sold or donated through the compassionate care program established in this section.

(4) A consumer may possess the following amounts of cannabis at any one time:

(a) up to eight ounces of dried unprocessed flower;

(b) up to twenty-eight grams of concentrated resin or extract; and

(c) up to four thousand milligrams of tetrahydrocannabinol in cannabis-infused products.

(5) No individual who is under twenty-one years of age may possess cannabis in any amount unless such individual is in possession of a medical marijuana patient or primary caregiver license issued pursuant to Article XIV Section 1.

(6) The legislature may pass criminal statute related to the possession, delivery, or distribution of cannabis in excess of the limits provided for in this section without the appropriate license. However, in no case shall the possession, delivery, or distribution of cannabis in an amount less than two times the limits provided for in this section be deemed a felony unless such delivery or distribution was to a person under twenty-one years of age. Any existing laws which criminalize possession, delivery, or distribution of cannabis in amounts less than the limits provided for in this section are hereby declared null and void unless such delivery or distribution was to a person under twenty-one years of age.

(7) Any individual convicted for a crime, other than a dangerous felony or the delivery or distribution to a person under seventeen years of age and more than two years younger than the person being charged, may file for release from custody and expungement of their criminal record in the jurisdiction in which the conviction occurred. Such release from custody shall be expedited and shall be granted unless the person seeking release is incarcerated for additional crimes. Such expungement shall be granted as a matter of right and shall not affect an individual's ability to seek expungement of other offenses under the laws of this state. The supreme court shall make available to the public free of charge forms for a release from custody or the expungement of such offenses. The filing fee for a motion or new cause of action under this subsection shall be no more than the filing fee for actions brought in the small claims court of the same jurisdiction.

(8) The presence or the smell of cannabis shall not be sufficient probable cause for a law enforcement officer to detain or search a person for reasons other than a suspected intoxication offense, or to impound or search the vehicle, residence, or other property of a consumer. Any search or arrest warrant issued for violations of this section or other cannabis laws not in conflict with this section shall require evidence of the violation and shall not be issued on the basis of the presence of cannabis alone. No search or arrest warrant shall be issued based on violations of this section or other cannabis laws not in conflict with this section that would allow law enforcement officers to enter a premises without first knocking and announcing their presence and purpose.

(9) The division shall develop in coordination with the Missouri department of health and senior services a compassionate care program through which cannabis may be tested and sold or donated to a cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility by any consumer, cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility. Any facility that receives excess cannabis through such program must make any cannabis received through the program available free of charge to qualifying patients and primary caregivers who meet financial need and health necessity criteria. Each facility may develop its own criteria, but in no case shall cannabis be provided free of charge to any individual who is not in possession of a medical marijuana patient or primary caregiver identification card.

7. Local Control

(1) Unless allowed by the local government, no new cannabis cultivation facility, cannabis testing facility, cannabis retail facility, or cannabis manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. A local government may allow for a location closer than one thousand feet but may not impose any restriction greater than one thousand feet.

(2) No local government shall prohibit cannabis cultivation facilities, cannabis testing facilities, cannabis manufacturing facilities, or cannabis retail facilities, or entities with a transportation or hospitality certification from operating within the locality either expressly or through the enactment of ordinances, including but not limited to zoning ordinances, or regulations that make their operation unduly burdensome in the locality. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality so long as such ordinances or regulations are not more restrictive than those imposed on the manufacture or sale of alcoholic beverages.

(3) Local governments shall develop and adopt ordinances and policies related to cannabis facilities and certificate holders no later than June 30, 2023. The local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose excessive fees or an undue burden if it imposes fees higher than or restrictions greater than those imposed on the manufacture and sale of alcoholic beverages.

(4) If the local government fails to adopt ordinances and policies specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the location and licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(3) Local governments may require cannabis cultivation facilities, cannabis manufacturing facilities, cannabis retail facilities, cannabis transportation or delivery certificate holders, cannabis hospitality certificate holders to be licensed businesses under the local ordinances. However no local government shall require an additional fee to be paid or additional special license to be acquired by a cannabis license or certificate holder that is not required for other businesses in the jurisdiction.

(4) A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality so long as such penalties are not greater than those imposed on the manufacture or sale of alcoholic beverages.

8. Other Provisions

(1) All cannabis for adult use sold in Missouri shall be cultivated in a licensed cultivation facility located in Missouri or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis.

(2) All cannabis-infused products for adult use sold in the state of Missouri shall be manufactured in a licensed manufacturing facility or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis-infused products.

(3) A cannabis testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the adult use of cannabis consistent with this section and otherwise meeting legal standards of professional conduct.

(4) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for being employed by, contracting with, or providing legal assistance to facilities licensed or certified under this section, entities applying for licensing or certification under this section, or any individual seeking legal advice related to activity that is no longer subject to civil or criminal penalties under state law pursuant to this section.

(5) Except as provided for by this section, actions and conduct by consumers, facilities licensed or certified under this section, or the employees, contractors, vendors, or agents of facilities licensed or certified under this section, as permitted by this section and in compliance with division regulations and other provisions of law, shall not be subject to criminal or civil liability or sanctions under Missouri law including but not limited to disciplinary action against a professional license, denial of public assistance programs or public services, or denial of a license to operate a vehicle, watercraft, or other equipment.

(6) It is the public policy of the state of Missouri that contracts related to cannabis for adult use that are entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis

hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to cannabis may be prohibited by federal law.

(7) No mandatory reporter under the laws of this state shall be required to report the adult use of cannabis by a parent or prospective parent unless such use is in violation of this section or the parent is actively endangering the health and safety of a child. A prospective foster or adoptive parent shall not be discriminated against for their use of cannabis for non-medical purposes unless such use is in violation of this section or other provisions of law not in conflict with this section.

(8) The denial of a license, license renewal, or identification card by the division shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the division shall be subject to judicial review as provided by law.

(9) No elected official shall interfere directly or indirectly with the division's obligations and activities under this section.

9. Severability

The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 6, 2021

RECEIVED
JUL 0 6 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Mitchell Hubbard regarding a proposed constitutional amendment to Article III (2022-041)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Mitchell Hubbard on July 2, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-041

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____
Page No. _____

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 JUL -2 PM 3:45
SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presences; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do ___ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Street Address of Affiant

Suscribed and sworn to before me this ____ day of _____, A.D. _____

_____
Printed Name of Affiant

_____
City, State and Zip Code of Affiant

_____
Signature of Notary

_____
Address of Notary

(Seal)

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri- Sections 5 and 9 of Article I and the following Sections of the RSMo- 44.010 – 44.130, 77.530, 79.380, 80.090, 167.181, 167.183, 171.031, 174.335, 190.091, 192.006, 192.011, 192.014, 192.020 – 192.326, 192.895, 210.003, 455.095, 537.1000, 537.1005, 537.1010, 537.1015, 537.1020, 537.1035. The proposed amendment revises Article III of the Constitution of Missouri by adding one new section to be known as Section 39(g).

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted by adding one new section to be known as section 39(g) of Article III to read as follows:

Section 39(g). I. That the people of the State of Missouri reserve certain rights during a local or state of emergency.

A. The State of Missouri shall, through general law mandate state, county and local governments and their agents to:

1. Protect equal treatment under the law by never declaring one non-government entity essential and another non-essential. If one non-government entity remains open then every non-government entity shall remain open; and
2. Protect religious freedom by prohibiting any interference with the right of individuals and houses of worship to determine the manner, place, and time of worship; the number of attendees; or limiting the ability to evangelize in public; or tracking, or creating a database of members of any religion; or limiting access to public utilities or emergency services; and
3. Protect the right to privacy by prohibiting:
    a. The use of data collected from cell phones, electronic devices, artificial intelligence, drones, auto license plate readers, facial recognition or other technology to track the movement of any citizen for the purpose of contact tracing; and
    b. Both mandates and inducements for any person to receive a microchip, RFID, quantum dot or other similar technology under their skin or elsewhere in their body or to be worn or carried on any item against their will; except an ankle bracelet may be used temporarily to monitor persons duly convicted of a crime and placed on house arrest according to general law; unless house arrest is ordered as an attempt to bypass the intent of this provision; and
    c. Both mandates and inducements for anyone to receive a vaccine against their religious or sincerely held non-religious beliefs or the religious or sincerely held non-religious beliefs of their parent(s) or guardian(s) if they are a minor; and
    d. Entrance into the residence of any person, against their will, to test, vaccinate, or remove them or others from the residence for failure to be tested or vaccinated, or because someone is or may be ill; and
    e. Unequal or different treatment of any person based on whether or not they have received a vaccine; and
    f. The awarding of any contract, doing business with, or investing state, county or local funds with any non-government entity that treats its employees or volunteers unequally or differently based on whether or not they received the Covid- 19 vaccination, or restricts or refuses to do business with or provide services to any person who is not vaccinated or refuses to show a vaccination card or other proof of vaccination for any vaccination, whether Covid-19 or not, except contracts existing prior to the effective date of this section may be fulfilled, but shall not be renewed, unless the non-government entity agrees in writing to do business with and or provide services to any person, and treat its employees the same, regardless of whether or not they were vaccinated against Covid-19 , without restriction, as part of the new contract; and
4. Protect the right of healthy people by prohibiting:
    a. Restrictions, limitations, and interference with the right of healthy people to travel either intrastate or interstate, unless travel to a specific location is temporarily unsafe due to damaged infrastructure, natural disaster or acts of war; and
    b. Quarantine and shelter in place orders for healthy people; and
    c. Restrictions, limitations, and interference with the right of healthy people to peacefully assemble; and

d. Orders requiring healthy people to wear a mask in public, private, or in government buildings or on government property, where the public would normally have access, unless the government facility is one that provides medical care or offers educational services to clients or residents who are considered medically at high risk, as determined by the Department of Health and Senior Services according to general law; and

e. Public schools from depriving healthy students of the opportunity to receive in person classroom instruction for more than two hundred thirty-eight hours or 34 days of the school year; and

5. Protect the right of healthy patients and residents who are in senior care and health care facilities to visit with their healthy family members and friends; by requiring The Department of Health and Senior Services and or local or county health departments to issue a plan for visitation, using reasonable safety precautions, for any facility where a quarantine order is issued according to general law. The plan for visitation shall be issued simultaneously with the order for quarantine, but may be modified as needed, so long as meaningful and reasonably safe weekly contact visitation is made available to each healthy resident, as determined by the Department of Health and Senior Services according to general law; and

6. Protect the right of people to use cash as legal tender by prohibiting legislation, administrative orders or any government action that restricts or prohibits the use of cash, except government agencies may refuse to accept an unreasonable amount of coins as payment as determined by general law; and

7. Hold harmless any person and any entity that may spread Covid-19, because the spread of the virus shall be deemed an act of God that is not subject to criminal or civil liability, unless the person who spreads or causes the virus to be spread is a healthcare employee or provider who knowingly assigns an infected patient to a room or area, in violation of the reasonable and prudent standard of care of a healthcare employee or provider, where those at high risk of dying from exposure to the virus are likely to be exposed; or is an elected government official, government employee or agent who in their official capacity, knowingly, causes a healthcare employee or provider to violate the reasonable and prudent standard of care by assigning an infected individual to a room or area as described herein; or is an individual or group of individuals who intentionally developed or dispersed Covid-19 as an act of bioterrorism; and

8. Apply the Doctrine of Anti-Commandeering to any federal law, rule, regulation, order, executive order or other action by the federal government that violates any provision of this section; and

B. Missouri citizens shall have standing to bring a cause of action to enforce the provisions of this section; and

C. Nothing in this section shall be construed to allow the destruction of a human embryo at any stage of development, regardless of the location of said embryo or to allow euthanasia or to prohibit regulation of individuals or businesses that perform abortions; and

D. The rights protected under this section do not spring into effect only during a local or state of emergency; they always exist and cannot be denied or restricted, even during an emergency; and

E. Nothing is this section shall be construed to restrict or hinder the right of any sole proprietorship, partnership, limited liability company, corporation, cooperative, non-profit organization, union, or other non-government entity to set their own policies for employees, interfacing with the public, or generally operating their business or organization; except as set out in provision 1(A)(3)(f) of this section; and

F. Nothing in this section shall be construed to prevent local health departments from instituting reasonable mitigation procedure where employees, interns, agents or volunteers of any entity are infected with a virus, disease or illness that is the subject of a local or state of emergency and failure to act would endanger the public health; or from acting for the safety of the public health in areas not affected by a local or state of emergency, according to general law; and

G. The provisions of this section are self-executing. All of the provisions of this section are severable. If any of the provisions of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid; and

H. Definitions:

1. Inducements means an action, consideration, promise or threat by the government that persuades or is likely to persuade or influence a person to do something. The application of any technology described in 1(A)(3)(b) of this section without the persons willing and informed written consent shall also be an inducement; and

2. Healthy means any person who has not been diagnosed with a virus, bacteria, disease or illness that is the subject of an ongoing local or state of emergency or someone who has been diagnosed, but is no longer contagious; and
3. Sincerely Held Non-Religious Beliefs means any rational belief that is not based on the religious beliefs of the person; and
4. Legal Tender means the kind of coin, money, or circulating medium which the law compels a creditor to accept in payment of his debt, when tendered by the debtor in the right amount; and
5. Cash means legal tender that is hard currency such as coins or banknotes as opposed to checks, credit, or virtual currency; and
6. Public School means any elementary or secondary school receiving tax payer funding; and
7. School Year means the number of days or hours required by general law for a public school to hold instruction in an academic year; and
8. Senior Care and Healthcare Facilities means any facility other than a correctional facility where health and or mental health services are provided on a non-outpatient basis; and
9. Contact Visitation means visits where healthy patients, family and friends shall have the right to be in close proximity and touch each other. This does not preclude any requirement that patients and or visitors wear personal protective equipment such as gloves or masks or meet in a designated area as determined by the Department of Health and Senior Services according to general law; and
10. Reasonable Mitigation Procedures means any reasonable action that is both necessary and the least restrictive means available to reduce the spread of a virus, bacteria, disease or illness that is the subject of a local or state of emergency, so long as it does not mandate any entity to be closed, reduce hours, or stop providing services for a period longer than necessary to sanitize the facility or remove contaminated products and re-open with personnel that are not under a quarantine order according to general law; and
11. Entity means any business, religious institution, cooperative, union, non-profit organization, government, or any other non-government organization; and
12. Bioterrorism means the intent to cause injury or death to a large group of people through the development of or dispersal of Covid-19 over a large area. No person shall be considered to commit bioterrorism who spreads the virus incidentally through regular human activity; and
13. Healthcare Employee or Provider means any medical doctor, nurse, nurses aid, administrator or other medical professional responsible for assigning patients to a room or area of a hospital, nursing home or healthcare facility for in patient care.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-041)

Subject

Initiative petition from Mitchell Hubbard regarding a proposed constitutional amendment to Article III of the Constitution of Missouri. (Received July 6, 2021)

Date

July 26, 2021

Description

This proposal would amend Article III of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Missouri Lottery,** the **State Tax Commission,** the **Missouri Veterans Commission,** the **Missouri Ethics Commission,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City**

Board of Election Commissioners, the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Children's Trust Fund of Missouri,** the **Missouri Joint Municipal Electric Utility Commission,** the **State Auditor's office,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Missouri Gaming Commission,** the **Municipal League of Metro St. Louis, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated the fiscal impact on their department is unclear. This petition prohibits a state agency from doing business with a private entity that may require its employees to receive a Covid-19 vaccination. Their department provides services to private entities on a contractual basis and the cost to not renew those contracts would have a fiscal impact but it is unclear to what extent.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no fiscal impact.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates numerous concerns for their department that could negatively impact the Department of Mental Health consumers and staff.

Their department's responsibility is to their consumers and staff who may be at high risk of an exposure to a contagious virus. Protection measures from a virus for staff and

consumers helps ensure safety for all members. Preventing preventative measures such as wearing masks, quarantining exposed individuals, or mandating vaccines could potentially spread the virus to vunerable/susceptible individuals, causing damaging and debilitating outcomes, even death. In addition, their department would be limited on the ability to protect consumers through the visitation limitations.

This petition creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated the fiscal impact to this proposal is unknown at this time.

This petition may have fiscal and operational impacts to their department. This petition prohibits interference with the right of individuals and houses of worship to determine the manner, place, and time of worship; the number of attendees; or tracking or creating a database of members of any religion. While it is believed their department is still allowed to restrict services under 1.302 RSMo, it does present another avenue for offenders to challenge when services are restricted. This may result in additional lawsuits by offenders. In addition, they track an offender's religious preference, which is not allowed under this petition. It is important for their department to track this information in order to ensure they are providing religious accommodations appropriately and effectively. The petition also prohibits the unequal or different treatment of any person based on whether or not they have received the vaccine. This could impact how their department handles offender visitations and work release programs.

Their department contracts with a health care provider to provide the constitutionally required health care service for the offender population. Many health care providers are beginning to require their staff be vaccinated. If their contracted provider makes this a requirement for their employees, according to this proposed section, they would no longer be permitted to use them. This could have a major impact on their department both fiscally and operationally.

RSMo 217.365 prohibits offenders from possessing cash while incarcerated. Their department operates canteens within each prison. The offenders are allowed to purchase items from the canteens using funds on the trust account. Allowing the offenders to spend cash in the canteens would jeopardize the safety and security of their institutions. Being in compliance with this section would have a major impact on their department fiscally and operationally.

Currently, friends and family are only permitted to fund an offenders commissary account by money order or credit card through a third party provider. In order to comply with this section, they would have to contract with a lockbox provider to offer cash service at 20 facilities across the state. This could be a significant cost to their department.

Additionally, their department collects a monthly fee from offenders under the supervision of probation and parole. The offenders are allowed to pay these fees utilizing ACH, credit cards or money orders. In order to comply with this section they would have to provide lockbox services at each of their 49 probation and parole district offices. This service would have a significant fiscal impact on their department.

This proposal has many instances where it could significantly impact their department, both fiscally and operationally; however, the fiscal impact is unknown at this time.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article III.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated the language in this petition has the potential to fiscally impact their department; however, they are not able to determine the amount of any fiscal impact at this time. The Missouri Veterans Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office.

This legislation would have a significant legal impact on their department. Here are a few areas of concern:

I.A.1 would require that "if one non-government entity remains open then every non-government entity shall remain open." By its plain language, this would eliminate the ability of government to close businesses and organizations in an emergency, and may prohibit them from closing them in circumstances other than an emergency. This concern is exacerbated by I.D, which states that this section is applicable at all times, and not just during an emergency.

I.A.3.a would prohibit the use of data from technology, including cellular phones and license plate readers, "to track the movement of any citizen for the purpose of contact tracing." Because "contact tracing" is not defined, there is a colorable argument that these tools would no longer be available in law enforcement investigations that are unrelated to public health emergencies.

I.A.3.e would prohibit "Unequal or different treatment of any person based on whether or not they have received a vaccine." This may have an effect on the Missouri National Guard, as members of the military are required to be vaccinated against a variety of diseases (e.g. smallpox and anthrax) in order to be eligible to serve.

I.A.3.f would prohibit awarding contracts, doing business with, or investing funds with any non-government entity that treats employees or volunteers differently based on whether they received a COVID-19 vaccination. This would restrict the ability of the state to contract with entities that have adopted vaccination policies that are responsive to the needs of their workplaces, for example, medical providers requiring a COVID-19 vaccination.

I.A.4.a would prohibit "restrictions, limitations, and interference with the right of healthy people" to travel to a location unless the area is unsafe "due to damaged infrastructure, natural disaster or acts of war." This would eliminate the ability to impose curfews or impose travel restrictions when civil unrest is occurring.

I.A.4.c would prohibit "restrictions, limitations, and interference with the right of healthy people to peacefully assemble." This would eliminate the ability to enact and enforce otherwise content-neutral time, place, and manner restrictions.

In addition, concerning Section A.7, the Missouri State Highway Patrol is not aware of any "bioterrorism" state charge in Missouri. This is relevant, because if a COVID-infected person intentionally coughed on another person in Missouri, they would likely be charged with Assault 4th Degree, but this section appears to nullify the charge of assault in these circumstances. The Patrol recommends including the word “assault” along with "bioterrorism."

Officials from the **Department of Social Services** indicated they do not anticipate a fiscal impact from this petition.

Officials from the **Governor's office** indicated this proposal enacting restrictions on the ability to respond to states of emergency should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is an unknown fiscal impact (cost or savings) to their department associated with paragraph A.3.f. in this initiative petition.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal enacting restrictions on the ability to respond to states of emergency should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated no fiscal impact from this initiative petition for their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate no cost or savings from this petition.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **St. Louis County** indicated their office does not have any information to provide.

Officials from the **City of Kansas City** indicated their local government estimates the fiscal impact of this amendment for fiscal years 2021 to be as follows:

This bill inhibits and limits their city's powers and flexibility to exercise its necessary powers, such as its police powers. It also affect their city's powers as necessary to respond

to emergencies, including public health emergencies, for example, among other things, limits on:

Shutting down business or type of business
Regulating places of worship
Performing necessary public health measures such as contact tracing and other epidemiological responses
Encouraging vaccine usage
Enforcing ordinance compliance
Business affairs of the city
Police powers of the city

This bill could also encourage and/or create liability for health care providers and workers, this would probably have an effect on related insurance.

Implementation of the bill would have a negative fiscal impact on their city. The extent of such impact would vary based on the specifics of situation or emergency, but costs based on public health emergencies could be vast.

Officials from the **City of St. Joseph** indicated no fiscal impact.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **Missouri Lottery** indicated no fiscal impact to their office.

Officials from the **State Tax Commission** indicated this initiative has no fiscal impact on their office.

Officials from the **Missouri Veterans Commission** indicated:

Michael L. Parson
Governor

Paul Kirchhoff
Executive Director

MISSOURI VETERANS COMMISSION

205 Jefferson Street, P.O. Drawer 147, Jefferson City, MO 65102-0147
Telephone: (573) 751-3779 www.mvc.dps.mo.gov Fax: (573) 751-6836

July 7, 2021

The Honorable John R. Ashcroft
Secretary of State
600 W. Main Street
Jefferson City, MO 65101

Dear Secretary of State Ashcroft,

Initiative Petition 2022-041 will potentially have a significant fiscal impact upon the Missouri Veterans Commission (MVC). Compliance with the proposed Article III, section 39(g) of the Missouri Constitution would put MVC in violation of Department of Veterans Affairs (VA) regulations regarding infection control and therefore could jeopardize our federal funding. Additionally, compliance with this provision would jeopardize the licenses of our medical staff (CNAs, nurses, physicians, etc.) if they were not allowed to adhere to standards of medical care for residents of our veterans homes who are demonstrating signs and symptoms of a contagious disease. Finally, although the proposed section contains a liability protection clause, the restraint on the use of standard care procedures for caring for people suspected of having a contagious disease would put us in violation of the collective bargaining agreement that we have in place with our direct care staff. This collective bargaining agreement requires us to adhere to all CDC published guidance and thus we would anticipate litigation with the Union representing our employees if we were unable to do so. Therefore, compliance with this proposal can reasonably be expected to lead to litigation despite its liability protections and MVC defers to the AGO as to any costs to the state in litigation expenses. MVC anticipates a possible fiscal impact of more than $70 million annually if VA funding for its Homes Program is revoked due to failure to comply with infection control protocols.

If I can be of any further assistance on this issue, please contact me at (573) 522-4224 at your convenience.

Sincerely,

Scotty L. Allen
General Counsel
Missouri Veterans Commission

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER
services provided on a nondiscriminatory basis

Officials from the **St. Louis County Board of Elections** indicated this will have no impact on their Board of Elections.

Officials from the **Kansas City Board of Election Commissioners** indicated the cost to conduct an election in the Kansas City portion of Jackson County is $625,000. This cost is prorated depending on the number of entities that participate and their pro-rata share of the cost based on voter registration.

Officials from the **State Auditor's office** indicated no fiscal impact on their office.

Officials from the **Children's Trust Fund of Missouri** indicated no impact on their office.

Officials from the **Missouri Gaming Commission** indicated the proposal will have no fiscal impact on their office.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College,** the **Missouri Ethics Commission,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **Board of Election Commissioners City of St. Louis,** the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Missouri Joint Municipal Electric Utility Commission,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Municipal League of Metro St. Louis, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Fiscal Note Summary

State governmental entities expect an unknown fiscal impact with a potential lost funding of at least $70 million annually. Local governmental entities expect an unknown negative fiscal impact that could be significant.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

June 29, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Mitchell Hubbard regarding a proposed constitutional amendment to Article III (2022-040)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Mitchell Hubbard on June 29, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____
Page No. _____

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 JUN 29 AM 11:14
SEC OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presences; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do ___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Printed Name of Affiant

_____ Street Address of Affiant

_____ City, State and Zip Code of Affiant

Suscribed and sworn to before me this ____ day of _____, A.D. _____

_____ Signature of Notary

_____ Address of Notary

(Seal)

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri- Sections 5 and 9 of Article I and the following Sections of the RSMo- 44.010 – 44.130, 77.530, 79.380, 80.090, 167.181, 167.183, 171.031, 174.335, 190.091, 192.006, 192.011, 192.014, 192.020 – 192.326, 192.895, 210.003, 455.095, 537.1000, 537.1005, 537.1010, 537.1015, 537.1020, 537.1035. The proposed amendment revises Article III of the Constitution of Missouri by adding one new section to be known as Section 39(g).

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted by adding one new section to be known as section 39(g) of Article III to read as follows:

Section 39(g). I. That the people of the State of Missouri reserve certain rights during a local or state of emergency.

A. The State of Missouri shall, through general law mandate state, county and local governments and their agents to:
    1. Protect equal treatment under the law by never declaring one non-government entity essential and another non-essential. If one non-government entity remains open then every non-government entity shall remain open; and
    2. Protect religious freedom by prohibiting any interference with the right of individuals and houses of worship to determine the manner, place, and time of worship; the number of attendees; or limiting the ability to evangelize in public; or tracking, or creating a database of members of any religion; or limiting access to public utilities or emergency services; and
    3. Protect the right to privacy by prohibiting:
        a. The use of data collected from cell phones, electronic devices, artificial intelligence, drones, auto license plate readers, facial recognition or other technology to track the movement of any citizen for the purpose of contact tracing; and
        b. Both mandates and inducements for any person to receive a microchip, RFID, quantum dot or other similar technology under their skin or elsewhere in their body or to be worn or carried on any item against their will; except an ankle bracelet may be used temporarily to monitor persons duly convicted of a crime and placed on house arrest according to general law; unless house arrest is ordered as an attempt to bypass the intent of this provision; and
        c. Both mandates and inducements for anyone to receive a vaccine against their religious or sincerely held non-religious beliefs or the religious or sincerely held non-religious beliefs of their parent(s) or guardian(s) if they are a minor; and
        d. Entrance into the residence of any person, against their will, to test, vaccinate, or remove them or others from the residence for failure to be tested or vaccinated, or because someone is or may be ill; and
        e. Unequal or different treatment of any person based on whether or not they have received a vaccine; and
        f. The awarding of any contract, doing business with, or investing state, county or local funds with any non-government entity that treats its employees or volunteers unequally or differently based on whether or not they received the Covid- 19 vaccination, or restricts or refuses to do business with or provide services to any person who is not vaccinated or refuses to show a vaccination card or other proof of vaccination for any vaccination, whether Covid-19 or not, except contracts existing prior to the effective date of this section may be fulfilled, but shall not be renewed, unless the non-government entity agrees in writing to do business with and or provide services to any person, and treat its employees the same, regardless of whether or not they were vaccinated against Covid-19 , without restriction, as part of the new contract; and

4. Protect the right of healthy people by prohibiting:
    a. Restrictions, limitations, and interference with the right of healthy people to travel either intrastate or interstate, unless travel to a specific location is temporarily unsafe due to damaged infrastructure, natural disaster or acts of war; and
    b. Quarantine and shelter in place orders for healthy people; and
    c. Restrictions, limitations, and interference with the right of healthy people to peacefully assemble; and
    d. Orders requiring healthy people to wear a mask in public, private, or in government buildings or on government property, where the public would normally have access, unless the government facility is one that provides medical care or offers educational services to clients or residents who are considered medically at high risk, as determined by the Department of Health and Senior Services according to general law; and
    e. Public schools from depriving healthy students of the opportunity to receive in person classroom instruction for more than two hundred thirty-eight hours or 34 days of the school year; and
5. Protect the right of healthy patients and residents who are in senior care and health care facilities to visit with their healthy family members and friends; by requiring The Department of Health and Senior Services and or local or county health departments to issue a plan for visitation, using reasonable safety precautions, for any facility where a quarantine order is issued according to general law. The plan for visitation shall be issued simultaneously with the order for quarantine, but may be modified as needed, so long as meaningful and reasonably safe weekly contact visitation is made available to each healthy resident, as determined by the Department of Health and Senior Services according to general law; and
6. Protect the right of people to use cash as legal tender by prohibiting legislation, administrative orders or any government action that restricts or prohibits the use of cash, except government agencies may refuse to accept an unreasonable amount of coins as payment as determined by general law; and
7. Hold harmless any person and any entity that may spread Covid-19, because the spread of the virus shall be deemed an act of God that is not subject to criminal or civil liability, unless the person who spreads or causes the virus to be spread is a healthcare employee or provider who knowingly assigns an infected patient to a room or area, in violation of the reasonable and prudent standard of care of a healthcare employee or provider, where those at high risk of dying from exposure to the virus are likely to be exposed; or is an elected government official, government employee or agent who in their official capacity, knowingly, causes a healthcare employee or provider to violate the reasonable and prudent standard of care by assigning an infected individual to a room or area as described herein; or is an individual or group of individuals who intentionally developed or dispersed Covid-19 as an act of bioterrorism; and
8. Apply the Doctrine of Anti-Commandeering to any federal law, rule, regulation, order, executive order or other action by the federal government that violates any provision of this section; and

B. Missouri citizens shall have standing to bring a cause of action to enforce the provisions of this section; and

C. Nothing in this section shall be construed to allow the destruction of a human embryo at any stage of development, regardless of the location of said embryo or to allow euthanasia or to prohibit regulation of individuals or businesses that perform abortions; and

D. The rights protected under this section do not spring into effect only during a local or state of emergency; they always exist and cannot be denied or restricted, even during an emergency; and

E. Nothing is this section shall be construed to restrict or hinder the right of any sole proprietorship, partnership, limited liability company, corporation, cooperative, non-profit organization, union, or other non-government entity to set their own policies for employees, interfacing with the public, or generally operating their business or organization; except as set out in provision 1(A)(3)(f) of this section; and

F. Nothing in this section shall be construed to prevent local health departments from instituting reasonable mitigation procedure where employees, interns, agents or volunteers

of any entity are infected with a virus, disease or illness that is the subject of a local or state of emergency and failure to act would endanger the public health; or from acting for the safety of the public health in areas not affected by a local or state of emergency, according to general law; and

G. The provisions of this section are self-executing. All of the provisions of this section are severable. If any of the provisions of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid; and

H. Definitions:

1. Inducements means an action, consideration, promise or threat by the government that persuades or is likely to persuade or influence a person to do something. The application of any technology described in 1(A)(3)(b) of this section without the persons willing and informed written consent shall also be an inducement; and
2. Healthy means any person who has not been diagnosed with a virus, bacteria, disease or illness that is the subject of an ongoing local or state of emergency or someone who has been diagnosed, but is no longer contagious; and
3. Sincerely Held Non-Religious Beliefs means any rational belief that is not based on the religious beliefs of the person; and
4. Legal Tender means the kind of coin, money, or circulating medium which the law compels a creditor to accept in payment of his debt, when tendered by the debtor in the right amount; and
5. Cash means legal tender that is hard currency such as coins or banknotes as opposed to checks, credit, or virtual currency; and
6. Public School means any elementary or secondary school receiving tax payer funding; and
7. School Year means the number of days or hours required by general law for a public school to hold instruction in an academic year; and
8. Senior Care and Healthcare Facilities means any facility other than a correctional facility where health and or mental health services are provided on a non-outpatient basis; and
9. Contact Visitation means visits where healthy patients, family and friends shall have the right to be in close proximity and touch each other. This does not preclude any requirement that patients and or visitors wear personal protective equipment such as gloves or masks or meet in a designated area as determined by the Department of Health and Senior Services according to general law; and
10. Reasonable Mitigation Procedures means any reasonable action that is both necessary and the least restrictive means available to reduce the spread of a virus, bacteria, disease or illness that is the subject of a local or state of emergency, so long as it does not mandate any entity to be closed, reduce hours, or stop providing services for a period longer than necessary to sanitize the facility or remove contaminated products and re-open with personnel that are not under a quarantine order according to general law; and
11. Entity means any business, religious institution, cooperative, union, non-profit organization, government, or any other non-government organization; and
12. Bioterrorism means the intent to cause injury or death to a large group of people through the development of or dispersal of Covid-19 over a large area. No person shall be considered to commit bioterrorism who spreads the virus incidentally through regular human activity; and
13. Healthcare Employee or Provider means any medical doctor, nurse, nurses aid, administrator or other medical professional responsible for assigning patients to a room or area of a hospital, nursing home or healthcare facility for in patient care.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

June 25, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Mitchell Hubbard regarding a proposed constitutional amendment to Article III (2022-039)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Mitchell Hubbard on June 24, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-039

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____
Page No. _____

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 JUN 24 PM 1:37
SEC OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presences; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do ___ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Street Address of Affiant

_____
City, State and Zip Code of Affiant

Suscribed and sworn to before me this ____ day of _____, A.D. _____

_____
Signature of Notary

_____
Address of Notary

(Seal)

NOTICE: You are advised that the proposed constitutional amendment may change, repeal, or modify by implication or may be construed by some persons to change, repeal or modify by implication, the following provisions of the Constitution of Missouri- Sections 5 and 9 of Article I and the following Sections of the RSMo- 44.010 – 44.130, 77.530, 79.380, 80.090, 167.181, 167.183, 171.031, 174.335, 190.091, 192.006, 192.011, 192.014, 192.020 – 192.326, 192.895, 210.003, 455.095, 537.1000, 537.1005, 537.1010, 537.1015, 537.1020, 537.1035. The proposed amendment revises Article III of the Constitution of Missouri by adding one new section to be known as Section 39(g).

Be it resolved by the people of the state of Missouri that the Constitution be amended:

One new section is adopted by adding one new section to be known as section 39(g) of Article III to read as follows:

Section 39(g). I. That the people of the State of Missouri reserve certain rights during a local or state of emergency.

A. The State of Missouri shall, through general law mandate state, county and local governments and their agents to:
    1. Protect equal treatment under the law by never declaring one non-government entity essential and another non-essential. If one non-government entity remains open then every non-government entity shall remain open; and
    2. Protect religious freedom by prohibiting any interference with the right of individuals and houses of worship to determine the manner, place, and time of worship; the number of attendees; or limiting the ability to evangelize in public; or tracking, or creating a database of members of any religion; or limiting access to public utilities or emergency services; and
    3. Protect the right to privacy by prohibiting:
        a. The use of data collected from cell phones, electronic devices, artificial intelligence, drones, auto license plate readers, facial recognition or other technology to track the movement of any citizen for the purpose of contact tracing; and
        b. Both mandates and inducements for any person to receive a microchip, RFID, quantum dot or other similar technology under their skin or elsewhere in their body or to be worn or carried on any item against their will; except an ankle bracelet may be used temporarily to monitor persons duly convicted of a crime and placed on house arrest according to general law; unless house arrest is ordered as an attempt to bypass the intent of this provision; and
        c. Both mandates and inducements for anyone to receive a vaccine against their religious or sincerely held non-religious beliefs or the religious or sincerely held non-religious beliefs of their parent(s) or guardian(s) if they are a minor; and
        d. Entrance into the residence of any person, against their will, to test, vaccinate, or remove them or others from the residence for failure to be tested or vaccinated, or because someone is or may be ill; and
        e. Unequal or different treatment of any person based on whether or not they have received a vaccine; and
        f. The awarding of any contract, doing business with, or investing state, county or local funds with any non-government entity that treats its employees or volunteers unequally or differently based on whether or not they received the Covid- 19 vaccination, or restricts or refuses to do business with or provide services to any person who is not vaccinated or refuses to show a vaccination card or other proof of vaccination for any vaccination, whether Covid-19 or not, except contracts existing prior to the effective date of this section may be fulfilled, but shall not be renewed, unless the non-government entity agrees in writing to do business with and or provide services to any person, and treat its employees the same, regardless of whether or not they were vaccinated against Covid-19 , without restriction, as part of the new contract; and

4. Protect the right of healthy people by prohibiting:
    a. Restrictions, limitations, and interference with the right of healthy people to travel either intrastate or interstate, unless travel to a specific location is temporarily unsafe due to damaged infrastructure, natural disaster or acts of war; and
    b. Quarantine and shelter in place orders for healthy people; and
    c. Restrictions, limitations, and interference with the right of healthy people to peacefully assemble; and
    d. Orders requiring healthy people to wear a mask in public, private, or in government buildings or on government property, where the public would normally have access, unless the government facility is one that provides medical care or offers educational services to clients or residents who are considered medically at high risk, as determined by the Department of Health and Senior Services according to general law; and
    e. Public schools from depriving healthy students of the opportunity to receive in person classroom instruction for more than two hundred thirty-eight hours or 34 days of the school year; and
5. Protect the right of healthy patients and residents who are in senior care and health care facilities to visit with their healthy family members and friends; by requiring The Department of Health and Senior Services and or local or county health departments to issue a plan for visitation, using reasonable safety precautions, for any facility where a quarantine order is issued according to general law. The plan for visitation shall be issued simultaneously with the order for quarantine, but may be modified as needed, so long as meaningful and reasonably safe weekly contact visitation is made available to each healthy resident, as determined by the Department of Health and Senior Services according to general law; and
6. Protect the right of people to use cash as legal tender by prohibiting legislation, administrative orders or any government action that restricts or prohibits the use of cash, except government agencies may refuse to accept an unreasonable amount of coins as payment as determined by general law; and
7. Hold harmless any person and any entity that may spread Covid-19, because the spread of the virus shall be deemed an act of God that is not subject to criminal or civil liability, unless the person who spreads or causes the virus to be spread is a healthcare employee or provider who knowingly assigns an infected patient to a room or area, in violation of the reasonable standard of care of a healthcare employee or provider, where those at high risk of dying from exposure to the virus are likely to be exposed; or is an elected government official, government employee or agent who in their official capacity, knowingly, causes a healthcare employee or provider to violate the reasonable standard of care by assigning an infected individual to a room or area as described herein; or is an individual or group of individuals who intentionally developed or dispersed Covid-19 as an act of bioterrorism; and
8. Apply the Doctrine of Anti-Commandeering to any federal law, rule, regulation, order, executive order or other action by the federal government that violates any provision of this section; and

B. Missouri citizens shall have standing to bring a cause of action to enforce the provisions of this section; and

C. Nothing in this section shall be construed to allow the destruction of a human embryo at any stage of development, regardless of the location of said embryo or to allow euthanasia or to prohibit regulation of individuals or businesses that perform abortions; and

D. The rights protected under this section do not spring into effect only during a local or state of emergency; they always exist and cannot be denied or restricted, even during an emergency; and

E. Nothing is this section shall be construed to restrict or hinder the right of any sole proprietorship, partnership, limited liability company, corporation, cooperative, non-profit organization, union, or other non-government entity to set their own policies for employees, interfacing with the public, or generally operating their business or organization; except as set out in provision 1(A)(3)(f) of this section; and

F. Nothing in this section shall be construed to prevent local health departments from instituting reasonable mitigation procedure where employees, interns, agents or volunteers

of any entity are infected with a virus, disease or illness that is the subject of a local or state of emergency and failure to act would endanger the public health; or from acting for the safety of the public health in areas not affected by a local or state of emergency, according to general law; and

G. The provisions of this section are self-executing. All of the provisions of this section are severable. If any of the provisions of this section is found by a court of competent jurisdiction to be unconstitutional or unconstitutionally enacted, the remaining provisions of this section shall be and remain valid; and

H. Definitions:

1. Inducements means an action, consideration, promise or threat by the government that persuades or is likely to persuade or influence a person to do something. The application of any technology described in 1(A)(3)(b) of this section without the persons willing and informed written consent shall also be an inducement; and
2. Healthy means any person who has not been diagnosed with a virus, bacteria, disease or illness that is the subject of an ongoing local or state of emergency or someone who has been diagnosed, but is no longer contagious; and
3. Sincerely Held Non-Religious Beliefs means any rational belief that is not based on the religious beliefs of the person; and
4. Legal Tender means the kind of coin, money, or circulating medium which the law compels a creditor to accept in payment of his debt, when tendered by the debtor in the right amount; and
5. Cash means legal tender that is hard currency such as coins or banknotes as opposed to checks, credit, or virtual currency; and
6. Public School means any elementary or secondary school receiving tax payer funding; and
7. School Year means the number of days or hours required by general law for a public school to hold instruction in an academic year; and
8. Senior Care and Healthcare Facilities means any facility other than a correctional facility where health and or mental health services are provided on a non-outpatient basis; and
9. Contact Visitation means visits where healthy patients, family and friends shall have the right to be in close proximity and touch each other. This does not preclude any requirement that patients and or visitors wear personal protective equipment such as gloves or masks or meet in a designated area as determined by the Department of Health and Senior Services according to general law; and
10. Reasonable Mitigation Procedures means any reasonable action that is both necessary and the least restrictive means available to reduce the spread of a virus, bacteria, disease or illness that is the subject of a local or state of emergency, so long as it does not mandate any entity to be closed, reduce hours, or stop providing services for a period longer than necessary to sanitize the facility or remove contaminated products and re-open with personnel that are not under a quarantine order according to general law; and
11. Entity means any business, religious institution, cooperative, union, non-profit organization, government, or any other non-government organization; and
12. Bioterrorism means the intent to cause injury or death to a large group of people through the development of or dispersal of Covid-19 over a large area. No person shall be considered to commit bioterrorism who spreads the virus incidentally through regular human activity; and
13. Healthcare Employee or Provider means any medical doctor, nurse, nurses aid, administrator or other medical professional responsible for assigning patients to a room or area of a hospital, nursing home or healthcare facility for in patient care.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

June 2, 2021

RECEIVED
JUN 0 2 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XXX (2022-038)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on June 2, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

SAMPLE VOID

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 JUN -3 AM 8:17
SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Street Address of Affiant

_____
Printed Name of Affiant

_____
City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____
Signature of Notary

_____
Address of Notary

22-038

Be it resolved by the people of the state of Missouri that the Constitution be amended:

so that it establishes election integrity procedures to (a) prevent attempts to fraudulently influence Missouri's elections, and (b) instill confidence in Missouri voters in the reported results of its elections.

Article XXX,

Sec. 1. Prohibited Election Conduct

(a) No voting machine may be utilized in any election to count or calculate votes. All votes shall be counted by hand by the judgment of the human eye. All counting shall occur by two persons.

(b) Any differences or uncertainties in counting by the two shall only be resolved by an individual approved and appointed in advance of the election by the state legislature.

(c) Mail in ballots shall be prohibited, except when requested by a voter in advance and after showing state-issued photo identification or a state-issued driver's license.

(d) All internet connectivity shall be discontinued at any polling place during the entire time votes are cast and counted. In addition, all persons serving in any capacity at a polling location, except observers, shall from the time of poll closing until the vote has been finally and publicly reported check in their cell phones so the counting occurs without the potential bias of any electronic sources of information of vote totals from other locations.

(e) Local law enforcement officials shall prohibit the delivery of boxes of any kind at a polling place from the time the polls are first open for voting until after all votes have been counted and reported.

Sec. 2. Registration Requirements

All registration to vote shall occur on or before 14 days prior to an election day. Such registration shall require the registering voter to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.

Sec. 3. Election Observer and Reporting Requirements

(a) No early voting shall be permitted more than two weeks before election day. All mail in ballots must be received two days before election day. Otherwise, they shall not be counted. Mail in balloting cannot be permitted to delay the announcement of full election totals within four hours after the poll's closing.

(b) All voters in all elections shall be required to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.

(c) All observers in a polling station shall be located within five feet of any station they desire to observe. Observers inside a polling station shall also be permitted to photograph any or all activities they desire. Private citizens outside a polling station shall be permitted to photograph

any and all activity they desire and shall be free from any liability of any kind for such photographing. All photographing shall be understood to include and allow video-taping and the recording of sound and voice.

(d) All ballots shall be counted only at and reported only from the place where the votes are cast.

(e) Under no condition shall the counting of votes be stopped between the time that a poll has closed and four hours thereafter unless completed.

(f) All votes shall be counted and reported within four hours of the time voting has closed. No votes being reported thereafter shall be valid.

(g) All vote totals shall be reported from all locations on the following basis: (a) by 11:59 p.m. of the night before the election (relating to early voting and mail in ballots); (b) at one hour after the scheduled polling closing time; (c) at two hours after the scheduled polling closing time; (d) at three hours after the scheduled polling closing time; and, finally, (e) at four hours after the scheduled polling closing time.

Sec. 4. Legislative Election Authority

(a) The legislature of the state shall have authority in elections for president and vice president of the United States to adjust or void any vote totals it determines appropriate. It may also ignore any vote totals and exercise its right to appoint electors as specified under the United States Constitution.

(b) Any alleged violation of state election law may be remedied by a complaint filed with the state legislature, who shall promptly according to its own procedures review, receive evidence, and make a final ruling on the same.

Sec. 5. Inspection Rights

All registration material, election-related computer files and data bases, and actual ballots cast shall remain available for inspection by representatives of any state party, the legislature, the courts, and any group of 1,000 or more requesting registered voters, for 120 days after the election.

Sec. 6. Election Crimes

(a) Any person (a) voting twice or more times in a single election, or (b) voting on behalf of a deceased person, or (c) voting using another person's name, or (d) voting who is not a United States citizen shall be guilty of treason against the state.

(b) Election officials denying any right to observers to an election shall be guilty of a Class III felony.

(c) Any person who resets or erases any election files or data bases, or destroys or misplaces any ballots prior to the end of the 120-day inspection period shall be guilty of a Class III felony.

(d) Any polling supervisor who fails to report partial and final results on the schedule shall be guilty of a Class III felony.

(e) Any ballot counter who intentionally, with a lack of good faith, causes ballots to be adjudicated shall be guilty of a Class III felony.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-038)

Subject

Initiative petition from Austin Shaffer regarding a proposed constitutional amendment to Article XXX of the Constitution of Missouri. (Received June 2, 2021)

Date

June 22, 2021

Description

This proposal would amend Article XXX of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated minimal to no fiscal impact.

Section 6(a) introduces the penalty for voting twice or more, voting by non-citizens, voting for a deceased person and voting in another person's name as a treason. In Missouri, penalty for treason is sentenced as not less than 10 years and not more than 30 years' imprisonment (eligible for parole after serving one-half of sentence) or life imprisonment (eligible for parole after serving 30 years). However, such penalty for election crimes is very infrequent to non-existent and their department has no data about offenders of this crime, thus they assume minimal to no impact by this change.

Section 6 (b), (c), (d), and (e) introduce new election offenses as a class III felony, for denying observers, destroying or misplacing ballots, failing to report results, and adjudicating ballots. In Missouri, the felony offenses are classified as Class A, B, C, D, or E. However, Class III election offenses in Missouri, under section 115.635, are

misdemeanor offenses. Nevertheless, election offenses are generally quite infrequent in Missouri and their department does not have any offender charged for felony election offense in fiscal year (FY) 2021. Hence, their department assumes minimal to no impact on offenders population by changes in this section.

Officials from the **Department of Labor and Industrial Relations** indicated:

Pursuant to Chapter 115, RSMo, the Missouri Secretary of State currently oversees the conduct of elections within the State of Missouri.

In addition to the MO Secretary of State, this could potentially impact the MO Attorney General's Office (enforcement). There is the potential, though unlikely, that this petition could impact the Department of Labor and Industrial Relation's State Board of Mediation (SBM).

Unlikely but potential impact: the petition states that internet connectivity shall be discontinued at any polling place on election days. Small businesses that are adjacent to polling places could potentially experience internet disruption, which would impact what/how much work could be performed on election days.

Article XXX, Section 1 of the petition provides that no voting machine may be utilized "in any election to count or calculate votes" and that "all votes shall be counted by hand by the judgment of the human eye." Although unlikely, this petition could potentially have an adverse impact on the SBM.

The SBM is a quasi-judicial board that administers the Public Sector Labor Law (Sections 105.500 -105.598, RSMo), which covers most public sector employees who seek union representation. The board defines an appropriate bargaining unit of employees based on whether or not they share a community of interest and, if certified, determines majority representation status by conducting a secret ballot election. SBM jurisdiction includes all counties, cities, school districts, special districts, and departments of state government, with a few exceptions.

When read in its entirety, the petition appears to address registered voters who participate in elections for municipal, county, state, and federal offices. Read in this context, there is no impact to the work of the SBM. However, in the event that Article XXX, Section 1 could be read so broadly that it would apply to *any election*, the SBM would need to be prepared to certify in-person, non-electronic elections for public employees seeking bargaining representation. This could impact the number of employees assigned to SBM (currently, there are two FTE (full-time equivements)), as well as expenditures for travel, meals, and lodging throughout Missouri to observe and certify such elections.

Officials from the **Department of Revenue** indicated no impact.

This proposed language in Section 2 and Section 3 in relation to identification requirements is very restrictive to state issued documents and does not allow for use of documents issued

by the United States including, but not limited to documents such as a valid passport or valid military identification card. This will result in an unknown increase in driver license and nondriver license issuance.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to election regulations should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact. They presume proceedings required under Section 4 (b) will be held in regular session, or special sessions where the cost of which will be absorbed.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this initiative petition.

Officials from the **Department of Transportation** indicated this initiative petition would have no direct fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to election regulations should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this amendment requires that all future elections in Missouri use paper ballots only, and that all ballots be counted by hand within four hours of the polls closing. Such a requirement will necessitate increased numbers of election judges to assist in the counting process. This is a new responsibility that must be provided for under Article X, Section 21 of the Missouri Constitution.

At the November 2020 general election, at least 3,025,962 ballots were cast statewide. Their assumption is that it will require two teams of judges to process ballots at a rate of one ballot every five minutes (one team to handle and read the ballot, one team to record the votes). Based on this estimation, it would take the equivalent of 126,100 four-hour team shifts to count all ballots. Since there are two judges in each team (one from each major party), this equates to 126,100 judge-days to be paid at an average cost of $125 per election judge (previously obtained by surveying a sample of local election authorities). This process would incur a cost of up to $15,762,500 per election.

If this amendment is passed, this cost would be fully incurred at least once in fiscal year FY23 (April 2023), twice in FY24 (March 2024, April 2024), and three times in FY25 (August 2024, November 2024, April 2025) for a minimum three-year cost of $94,575,000. There would also be additional partially-incurred costs to cover costs of elections outside of the normally-scheduled primary, general, and municipal elections (such as special elections or municipal elections in charter cities/counties). The exact scope of such potential expense is unknown.

Officials from the **Office of the State Public Defender** indicated no fiscal impact for their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following fiscal impact as a result of this initiative:

Board of Election Cost Savings—

- Savings of ~$50,000 per year for servicing voting machines
- Costs of ~$2,000 per year in extra training to count votes
- Savings of ~$130,000 per year in voting machines capital outlay
- Net savings of ~$178,000 per year

Election Costs—

- ~$120,000 in costs for more poll workers and ballot counters for even year primary and general elections combined
- ~$50,000 in Sheriff Deputy OT
- Net costs of ~$170,000 per even election year

The County would only need staff costs for even year elections of primaries and the general.

Officials from **Greene County** indicated:

Initiative petition 22-038 proposing to amend Article XXX Estimated Costs	
Ballot Tabulation by Hand	$50,243.00
Law Enforcement	$52,974.00
Internet Monitor	$14,337.00
Reduced Absentee Period	-$12,261.00
Logic & Accuracy Test Savings	-$3,100.00
Election Judge Costs Increase	$166,930.00
Ballot Tabulation by Hand	$3,668.00
DS200 & Electronic Tabulation Savings	-$12,878.00
PollPad Deployment Increase	$10,440.00
Total Estimated Cost	$270,353.00

An explanation of the costs is detailed here as well:

1. **Hand tabulation of ballots: 50,243.00**

    a. This is estimated based off a four hour pay increase of all 745 election judges that would be working on election day.
    b. This does not include absentee or any standard election night costs.

2. **Law enforcement personnel stationed at each polling location: 52,974.00**

    a. This is one person at each polling location that was used in the November 2020 Election, with additional compensation for the extra four hours of operation as proposed in the petition.

3. **One person per polling location to monitor no internet access: 14,337.00**

4. **Potential savings from absentee voting being reduced to a 2-week period: *12,261.00***

5. **Potential savings from Logic and Accuracy Testing: *3,100.00***

6. **Potential increases of election Judges due to a smaller absentee voting period: 166,930.00**

    a. This calculation is based off of the amount of election judges increasing from 624 to 745.

7. **Hand tabulation of absentee and mail-in ballots increase: 3,668.00**

    a. In November 3, 2020 Election, the office employed six election judges on election day.

8. **DS200 (computer system) and Electronic Tabulation Savings: *12,878.00***

9. **PollPad (computer system) Deployment Increase due to a smaller absentee voting period: 10,440.00**

Total cost increase of petition 22-038: 270,353

Please note these are costs per general election. This was listed as a sample of what it would do for one election, as there are a different amount of elections depending on the year.

Officials from the **City of Kansas City** indicated this amendment if approved would likely have a negative fiscal impact on their city in an indeterminate amount because the increased costs to their county election boards would be passed on to Kansas City.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **St. Louis County Board of Elections** indicated they estimate this initiative petition would have the following impact on their office (per election).

"Yes" Impact

Breakdown:

- $24 million – To hire ballot counters to count Election Day ballots in 4 Hours.
  800 Election workers per polling place
  300 Polling Places
  240,000 Workers per election
  960,000 Hours @ $25 per hour = **$24 million**

- $1.5 million – To train poll workers
  60,000 workers @ $25 per hour = **$1.5 million**

- $555,000 – To hire workers to count Absentee Ballots
  22,200 Hours @ $25 per hour = **$555,000**

- $194,300 – To hire security/officers for Election Day security
  $36 per hour x 18 hours = $648.00
  300 Polling Places = **$194,400**

Total Estimated Cost Per Election: **$26.249 Million**

Their November ballot has had over 50 races in 2018 and 2020. With the usual high turnout (79%), if they have to count each one by hand in four hours, they need this many people. To be honest, they do not have space in most of their polling places for 200 much less 800 people.

Officials from the **Board of Election Commissioners City of St. Louis** indicated:

This petition proposes, among others, the following changes:

1. All ballots will be counted by hand and human eye;
2. Ballots will be counted, tabulated and reported at the place where the ballots are cast; and
3. All ballots are to be counted and reported within four hours of the polling places closing.

In November of 2020, at the General Election, a total of 134,886 votes were cast. A team at the St. Louis City Election Board simulated the experience of a bi-partisan team counting a ballot; in an ideal environment, it took the team 140 seconds to count and verify each race on the ballot. Therefore to count all ballots last November it would have taken 18,884,040 seconds, or 314,734 minutes, or 5,246 hours, which divided by 4 (the hours

allocated by the petition for counting) meant they would need at a minimum 1311 teams counting feverishly and perfectly, like machines, if you will, to even come close to accomplishing this task. 1311 teams translates to 2622 people. If you paid 2622 people 15 dollars an hour for 4 hours of work, this would come to $157,367. In reality, however, given no shows, the need for teams of judges to address voter intent on poorly marked ballots, you would need double the amount of people, therefore 5244, people for a total of $314,734.

This is the cost of labor alone. The impact on the ability to use many of the 99 polling places we currently use is almost impossible to determine; i.e., whether many of these places would be willing to participate in this endeavor, whether they have the space to house the number of teams necessary to count, etc.

votes cast	134,886
seconds per count each vote	140
total seconds to count all votes	18,884,040
total minutes to count all votes	314,734
total hours to count all votes	5,246
teams needed to count all votes	1,311
total people need to count all votes	2,622
cost at 15 per hour for one hour of counting	39,342
cost for 4 hours	157,367

Officials from the **Platte County Board of Elections** indicated the constitutional changes proposed by this petition are physically impossible to comply with and clearly undemocratic. This is not a serious proposal.

Officials from the **Clay County Board of Election Commissioners** indicated many parts of this proposal to amend the Missouri Constitution would be impossible to enact in their county and most other jurisdictions. It also violates Federal legislation. They would lose many polling locations and poll workers if these were enacted not to mention voters disenfranchised. The cost is immeasurable.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College,** the **Kansas City Board of Election Commissioners,** and the **Jackson County Election Board.**

Fiscal Note Summary

State and local governments estimate ongoing election-related costs of at least $2,000 annually and at least $16 million per election, but the total cost is unknown. Local governments estimate savings of at least $180,000 annually and at least $28,000 for each general election.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

June 2, 2021

RECEIVED
JUN 0 2 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XXIX (2022-037)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on June 2, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

"It is a Class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 JUN -3 AM 8:47
SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-037

Be it resolved by the people of the state of Missouri that the Constitution be amended:

so that it (a) clarifies the Federal Government duty to uphold the rights of Missouri citizens under the U.S. Constitution, including the Bill of Rights and all other provisions, (b) identifies breaches by the Federal Government, and (c) affirms Missouri's right to assess the severity and consequences of such breaches of the US Constitution.

Article XXIX,

Sec. 1. Duty of Federal Government of the United States to Uphold the Bill of Rights and Constitution

(a) The State of Missouri hereby clarifies its admission as a State into the United States of America. Such application by Missouri and admission by the federal government are, in essence, a governmental compact between the two whereby both parties undertake to fulfill their respective duties.

(b) The Supremacy Clause of the Constitution of the United States and application of the doctrine set forth in Marbury v. Madison together are not designed to give the federal government a "blank check" in this governmental compact. Accordingly, the federal government is obligated to uphold its end of the bargain, or else find itself in breach.

(c) Some breaches of federal government duty may be material, and some may be immaterial.

(d) All breaches of the federal government to uphold each of the provisions of the Bill of Rights, including the Tenth Amendment, of the Constitution of the United States is a material breach.

(e) Failure of the federal government to allow states to propose Constitutional amendments under Article V of the Constitution of the United States of America is also a material breach.

(f) The State of Missouri reserves the right to address breaches, both material and immaterial, as it may determine proper, following good faith efforts to reconcile such breaches and allowing the federal government a period in which it can remedy its breach of contract.

Sec 2. Federal Breaches

The following actions by the United States of America constitute breaches of the Constitutional compact it has with the State of Missouri:

(a) The excessive use of executive orders by the President of the United States of America, except in the case of live military conflict, circumventing the representative legislative process;

(b) The excessive and reckless incurrence of debt, except in the case of anticipated or live military conflict;

(c) Failure to effectively protect the borders of the country from unauthorized entry or invasion;

(d) Failure by the Justice Department and Supreme Court of the United States of America to (i) equally enforce the rule of law, (ii) imbue citizens with confidence that the results of national elections are free and fair, and (iii) provide prompt enforcement of criminal laws without endless delays due to investigations often times resulting in no meaningful enforcement action;

(e) Failure by the federal government to protect the right of the State of Missouri under the Tenth Amendment to the Constitution of the United States of America to exercise powers not specifically

given to the federal government, including the power to protect life and protect marriage as Missouri determines best;

(f) Dramatically curtailing freedom of speech of all kinds, in both the public and private arena;

(g) Increasingly curtailing freedom of worship with only the least restrictive means of governmental limitation to serve a compelling governmental interest;

(h) Congress effectively ignoring the right of States to propose amendments to the Constitution of the United States of America under Article V; and,

(i) In the name of protection, creating and deploying espionage tools stripping Americans of their sense of privacy of thought, speech, and action, and use of electronic tools of all kinds.

Sec 3. Significance of such Breaches

The severity of such breaches, and which, if any of them, are immaterial, and the consequences thereof are for the State of Missouri to assess and decide.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-037)

Subject

Initiative petition from Austin Shaffer regarding a proposed constitutional amendment to Article XXIX of the Constitution of Missouri. (Received June 2, 2021)

Date

June 22, 2021

Description

This proposal would amend Article XXIX of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no significant fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article XXIX.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to the distribution of State and Federal constitutional authority should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this initiative petition.

Officials from the **Department of Transportation** indicated this initiative petition would have no direct fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to the distribution of State and Federal constitutional authority should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated no fiscal impact for their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated there is no fiscal impact to their county from this measure.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State and local governmental entities estimate no costs or savings.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

June 2, 2021

RECEIVED
JUN 0 2 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XXVIII (2022-036)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on June 2, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

SAMPLE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 JUN -3 AM 8:47
SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-036

Be it resolved by the people of the state of Missouri that the Constitution be amended:

To include the Bill of Rights as part of the Constitution of the State of Missouri.

Article XXVIII,

Sec. 1, Power of the People

All power of government is created by and comes from the People to the Government.

Sec. 2, Bill of Rights

The State of Missouri hereby guarantees to all its citizens to protect all of the following rights from infringement by any government (collectively known as the Missouri Bill of Rights):

(a) No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

(b) A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.

(c) No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

(d) The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, including all forms of electronic searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

(e) No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

(f) In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

(g) In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

(h) Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(i) The enumeration in the Constitution of Missouri, of certain rights, shall not be construed to deny or disparage others retained by the people.

(j) The powers not delegated to the United States by the Constitution of the United States, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Sec. 3. Involuntary Servitude

Involuntary Servitude is prohibited of any individual by another, and also of the State of Missouri by the Federal Government.

-

Sec 4, Remainder of Constitution

The State of Missouri hereby adopts all the remaining text of the Constitution of the United States of America as a part of its own Constitution, without applicability of any Supreme Court or Federal Court decisions or precedents, to be effective if and only if,

(a) the United States of America collapses, or

(b) Missouri lawfully ceases to be a part of the United States of America.

Upon (a) or (b) happening, prior Federal Court decisions, including those considering state issues, shall be of no further authority in Missouri.

Sec 5, Past Court Decisions and Interpretations

Any holdings in In re Interest of Anaya, 276 Neb. 825 or State v. Noble, 171 Ariz. 171 are hereby rejected; while the holdings in Hendricks v. State,897 N.E.2d 1208 (Ind. Ct. App. 2008) are hereby affirmed. The interpretation of the Missouri Bill of Rights shall be by Missouri courts and fresh and independent of past interpretations of the Bill of Rights contained in the United States Constitution. No contemporaneous, legislative, or administrative construction of the Missouri Bill of Rights is permitted; although reference to the Federalist Papers for interpretive guidance is permitted. All the provisions of the Missouri Bill of Rights are self-executing and shall be so interpreted.

The provisions of this amendment shall be interpreted to supplement other provisions of the Constitution of Missouri, where such provisions can be consistently interpreted, or, if such construction is not possible, then the provisions of this amendment shall supersede such other provisions of the Constitution of Missouri.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-036)

Subject

Initiative petition from Austin Shaffer regarding a proposed constitutional amendment to Article XXVIII of the Constitution of Missouri. (Received June 2, 2021)

Date

June 22, 2021

Description

This proposal would amend Article XXVIII of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated unknown fiscal impact. This petition contains language related to the adoption and abandonment of certain federal authorities. It is very broad in its application, and there could potentially be a legal impact in the future stemming from the Bill of Rights and other decisions and precedents, but it's difficult to ascertain the scope. They believe there could be legal impact for both the state and their agency. As an agency they get sued for violation of rights by offenders, which in turn drives their policies.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article XXVIII.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal relating to incorporating provisions of the U.S. Constitution should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact, with the qualification that they cannot reasonably predict what impact there would be to the House of amending the entire US Constitution to the state's, and vacating every federal court decision, under Section 4 (a) and (b).

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this initiative petition.

Officials from the **Department of Transportation** indicated this initiative petition would have no direct fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to incorporating provisions of the U.S. Constitution should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot

measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated no fiscal impact for their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated there is no fiscal impact to their county from this measure.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated this amendment would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities estimate no costs or savings, but indicated the proposal could result in unknown impacts. Local governmental entities estimate no costs or savings.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 14, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XXX (2022-035)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on May 14, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

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To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 MAY 14 AM 8:56

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-035

Be it resolved by the people of the state of Missouri that the Constitution be amended:

so that it establishes election integrity procedures to (a) prevent attempts to fraudulently influence Missouri's elections, and (b) instill confidence in Missouri voters in the reported results of its elections.

Article XXX,

Sec. 1. Prohibited Election Conduct

(1) No voting machine may be utilized in any election to count or calculate votes. All votes shall be counted by hand by the judgment of the human eye. All counting shall occur by two persons.
(2) Any differences or uncertainties in counting by the two shall only be resolved by an individual approved and appointed in advance of the election by the state legislature.
(3) Mail in ballots shall be prohibited, except when requested by a voter in advance and after showing state-issued photo identification or a state-issued driver's license.
(4) All internet connectivity shall be discontinued at any polling place during the entire time votes are cast and counted. In addition, all persons serving in any capacity at a polling location, except observers, shall from the time of poll closing until the vote has been finally and publicly reported check in their cell phones so the counting occurs without the potential bias of any electronic sources of information of vote totals from other locations.
(5) Local law enforcement officials shall prohibit the delivery of boxes of any kind at a polling place from the time the polls are first open for voting until after all votes have been counted and reported.

Sec. 2. Registration Requirements

(1) All registration to vote shall occur on or before 14 days prior to an election day. Such registration shall require the registering voter to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.

Sec. 3. Election Observer and Reporting Requirements

(1) No early voting shall be permitted more than two weeks before election day. All mail in ballots must be received two days before election day. Otherwise, they shall not be counted. Mail in balloting cannot be permitted to delay the announcement of full election totals within four hours after the poll's closing.
(2) All voters in all elections shall be required to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.
(3) All observers in a polling station shall be located within five feet of any station they desire to observe. Observers inside a polling station shall also be permitted to photograph any or all activities they desire. Private citizens outside a polling station shall be permitted to photograph any and all activity they desire and shall be free from any liability of any kind for such photographing. All photographing shall be understood to include and allow video-taping and the recording of sound and voice.
(4) All ballots shall be counted only at and reported only from the place where the votes are cast.

(5) Under no condition shall the counting of votes be stopped between the time that a poll has closed and four hours thereafter unless completed.
(6) All votes shall be counted and reported within four hours of the time voting has closed. No votes being reported thereafter shall be valid.
(7) All vote totals shall be reported from all locations on the following basis: (a) by 11:59 p.m. of the night before the election (relating to early voting and mail in ballots); (b) at one hour after the scheduled polling closing time; (c) at two hours after the scheduled polling closing time; (d) at three hours after the scheduled polling closing time; and, finally, (e) at four hours after the scheduled polling closing time.

Sec. 4. Legislative Election Authority

(1) The legislature of the state shall have authority in elections for president and vice president of the United States to adjust or void any vote totals it determines appropriate. It may also ignore any vote totals and exercise its right to appoint electors as specified under the United States Constitution.
(2) Any alleged violation of state election law may be remedied by a complaint filed with the state legislature, who shall promptly according to its own procedures review, receive evidence, and make a final ruling on the same.

Sec. 5. Inspection Rights

(1) All registration material, election-related computer files and data bases, and actual ballots cast shall remain available for inspection by representatives of any state party, the legislature, the courts, and any group of 1,000 or more requesting registered voters, for 120 days after the election.

Sec. 6. Election Crimes

(1) Any person (a) voting twice or more times in a single election, or (b) voting on behalf of a deceased person, or (c) voting using another person's name, or (d) voting who is not a United States citizen shall be guilty of treason against the state.
(2) Election officials denying any right to observers to an election shall be guilty of a Class III felony.
(3) Any person who resets or erases any election files or data bases, or destroys or misplaces any ballots prior to the end of the 120-day inspection period shall be guilty of a Class III felony.
(4) Any polling supervisor who fails to report partial and final results on the schedule shall be guilty of a Class III felony.
(5) Any ballot counter who intentionally, with a lack of good faith, causes ballots to be adjudicated shall be guilty of a Class III felony.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 14, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XXIX (2022-034)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on May 14, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

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We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 MAY 14 AM 8:56

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Printed Name of Affiant

_____ Street Address of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-034

Be it resolved by the people of the state of Missouri that the Constitution be amended:

so that it (a) clarifies the Federal Government duty to uphold the rights of Missouri citizens under the U.S. Constitution, including the Bill of Rights and all other provisions, (b) identifies breaches by the Federal Government, and (c) affirms Missouri's right to assess the severity and consequences of such breaches of the US Constitution.

Article XXIX,

Sec. 1. Duty of Federal Government of the United States to Uphold the Bill of Rights and Constitution

(1) The State of Missouri hereby clarifies its admission as a State into the United States of America. Such application by Missouri and admission by the federal government are, in essence, a governmental compact between the two whereby both parties undertake to fulfill their respective duties.
(2) The Supremacy Clause of the Constitution of the United States and application of the doctrine set forth in Marbury v. Madison together are not designed to give the federal government a "blank check" in this governmental compact. Accordingly, the federal government is obligated to uphold its end of the bargain, or else find itself in breach.
(3) Some breaches of federal government duty may be material, and some may be immaterial.
(4) All breaches of the federal government to uphold each of the provisions of the Bill of Rights, including the Tenth Amendment, of the Constitution of the United States is a material breach.
(5) Failure of the federal government to allow states to propose Constitutional amendments under Article V of the Constitution of the United States of America is also a material breach.
(6) The State of Missouri reserves the right to address breaches, both material and immaterial, as it may determine proper, following good faith efforts to reconcile such breaches and allowing the federal government a period in which it can remedy its breach of contract.

Sec 2. Federal Breaches

The following actions by the United States of America constitute breaches of the Constitutional compact it has with the State of Missouri:

(a) The excessive use of executive orders by the President of the United States of America, except in the case of live military conflict, circumventing the representative legislative process;
(b) The excessive and reckless incurrence of debt, except in the case of anticipated or live military conflict;
(c) Failure to effectively protect the borders of the country from unauthorized entry or invasion;
(d) Failure by the Justice Department and Supreme Court of the United States of America to (i) equally enforce the rule of law, (ii) imbue citizens with confidence that the results of national elections are free and fair, and (iii) provide prompt enforcement of criminal laws without endless delays due to investigations often times resulting in no meaningful enforcement action;
(e) Failure by the federal government to protect the right of the State of Missouri under the Tenth Amendment to the Constitution of the United States of America to exercise powers not specifically given to the federal government, including the power to protect life and protect marriage as Missouri determines best;
(f) Dramatically curtailing freedom of speech of all kinds, in both the public and private arena;
(g) Increasingly curtailing freedom of worship with only the least restrictive means of governmental limitation to serve a compelling governmental interest;

(h) Congress effectively ignoring the right of States to propose amendments to the Constitution of the United States of America under Article V; and,
(i) In the name of protection, creating and deploying espionage tools stripping Americans of their sense of privacy of thought, speech, and action, and use of electronic tools of all kinds.

Sec 3. Significance of such Breaches

The severity of such breaches, and which, if any of them, are immaterial, and the consequences thereof are for the State of Missouri to assess and decide.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

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RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XXVIII (2022-033)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on May 14, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

Page No. _____

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 MAY 14 AM 8:56

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Street Address of Affiant

_____
City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____
Signature of Notary

_____
Address of Notary

22-033

Be it resolved by the people of the state of Missouri that the Constitution be amended:

To include the Bill of Rights as part of the Constitution of the State of Missouri.

Article XXVIII,

Sec. 1, Power of the People

All power of government is created by and comes from the People to the Government.

Sec. 2, Bill of Rights

The State of Missouri hereby guarantees to all its citizens to protect all of the following rights from infringement by any government (collectively known as the Missouri Bill of Rights):

(1) No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
(2) A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.
(3) No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.
(4) The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, including all forms of electronic searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
(5) No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.
(6) In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.
(7) In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.
(8) Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.
(9) The enumeration in the Constitution of Missouri, of certain rights, shall not be construed to deny or disparage others retained by the people.
(10) The powers not delegated to the United States by the Constitution of the United States, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Sec. 3, Involuntary Servitude

Involuntary Servitude is prohibited of any individual by another, and also of the State of Missouri by the Federal Government.

-

Sec 4, Remainder of Constitution

The State of Missouri hereby adopts all the remaining text of the Constitution of the United States of America as a part of its own Constitution, without applicability of any Supreme Court or Federal Court decisions or precedents, to be effective if and only if,

(a) the United States of America collapses, or

(b) Missouri lawfully ceases to be a part of the United States of America.

Upon (a) or (b) happening, prior Federal Court decisions, including those considering state issues, shall be of no further authority in Missouri.

Sec 5, Past Court Decisions and Interpretations

Any holdings in In re Interest of Anaya, 276 Neb. 825 or State v. Noble, 171 Ariz. 171 are hereby rejected; while the holdings in Hendricks v. State,897 N.E.2d 1208 (Ind. Ct. App. 2008) are hereby affirmed. The interpretation of the Missouri Bill of Rights shall be by Missouri courts and fresh and independent of past interpretations of the Bill of Rights contained in the United States Constitution. No contemporaneous, legislative, or administrative construction of the Missouri Bill of Rights is permitted; although reference to the Federalist Papers for interpretive guidance is permitted. All the provisions of the Missouri Bill of Rights are self-executing and shall be so interpreted.

The provisions of this amendment shall be interpreted to supplement other provisions of the Constitution of Missouri, where such provisions can be consistently interpreted, or, if such construction is not possible, then the provisions of this amendment shall supersede such other provisions of the Constitution of Missouri.

RECEIVED
MAY 03 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 3, 2021

RECEIVED
MAR 03 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lisa D'Souza regarding a proposed statutory amendment to Chapter 290, version 6 (2022-032)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lisa D'Souza on May 3, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John (Jay) Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022 and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2021 MAY -3 AM 10:02

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of Payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 20_____.

Notary Public (Seal)

_____

Signature of Notary

My commission expires

_____. _____

Address of Notary (Street, City, State & Zip Code)

Be it enacted by the people of the State of Missouri:

Fifteen new sections to be known as sections 290.600, 290.603, 290.606, 290.609, 290.612, 290.615, 290.618, 290.621, 290.624, 290.627, 290.630, 290.633, 290.636, 290.639, and 290.642 are enacted to read as follows:

290.600. As used in sections 290.600 through 290.642:

(1) "Construction", includes construction, reconstruction, improvement, enlargement, alteration, painting and decorating, or major repair.

(2) "Construction industry", includes any employer whose employees conduct or perform construction as a principal component of the employer's business or enterprise.

(3) "Department", Department of Labor and Industrial Relations.

(4) "Director", Director of the Department of Labor and Industrial Relations.

(5) "Domestic violence", as such term is defined in section 455.010.

(6) "Earned paid sick time", time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in section 290.606, but in no case shall this hourly amount be less than that provided under section 290.502.

(7) "Employee", any individual employed in this state by an employer, but does not include:

(A) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to the organization are on a voluntary basis;

(B) Any individual standing in loco parentis to foster children in their care;

(C) Any individual employed for less than four months in any year in a resident or day camp for children or youth, or any individual employed by an educational conference center operated by an educational, charitable or not-for-profit organization;

(D) Any individual engaged in the activities of an educational organization where employment by the organization is in lieu of the requirement that the individual pay the cost of tuition, housing or other educational fees of the organization or where earnings of the individual employed by the organization are credited toward the payment of the cost of tuition, housing or other educational fees of the organization;

(E) Any individual employed on or about a private residence on an occasional basis for six hours or less on each occasion;

(F) Any individual employed on a casual basis to provide baby-sitting services;

(G) Any individual employed by an employer subject to the provisions of part A of subtitle IV of title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;

(H) Any individual employed on a casual or intermittent basis as a golf caddy, newsboy, or in a similar occupation;

(I) Any individual who is employed in any government position defined in 29 U.S.C. §§ 203(e)(2)(C)(i)-(ii);

(J) Any individual employed by a retail or service business whose annual gross volume sales made or business done is less than five hundred thousand dollars;

(K) Any individual who is an offender, as defined in section 217.010, who is incarcerated in any correctional facility operated by the department of corrections, including offenders who provide labor or services on the grounds of such correctional facility pursuant to section 217.550;

(L) Any individual described by the provisions of section 29 U.S.C. 213(a)(8); or

(M) Any individual engaged in construction work in the construction industry.

(8) "Employer", any person acting directly or indirectly in the interest of an employer in relation to an employee; provided, however, that for the purposes of sections 290.600 through 290.642 "employer" does not include the United States Government, the state, or a political subdivision of the state, including a department, agency, officer, bureau, division, board, commission, or instrumentality of the state, or a city, county, town, village, school district, public higher education institution, or other political subdivision of the state.

(9) "Family member", any of the following individuals:

(A) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor;

(B) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or an individual who stood in loco parentis when the employee or employee's spouse or domestic partner was a minor child;

(C) An individual to whom the employee is legally married under the laws of any state, or a domestic partner who is registered as such under the laws of any state or political subdivision;

(D) A grandparent, grandchild, or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or

(E) A person for whom the employee is responsible for providing or arranging health or safety-related care, including but not limited to helping that individual obtain diagnostic, preventative, routine, or therapeutic health treatment or ensuring the person is safe following domestic violence, sexual assault, or stalking.

(10) "Health care professional," any individual licensed under federal or any state law to provide medical or emergency services, including but not limited to doctors, nurses, certified nurse midwives, mental health professionals, and emergency room personnel.

(11) "Person", any individual, partnership, association, corporation, business, business trust, legal representative, or any organized group of persons.

(12) "Retaliatory personnel action", denial of any right guaranteed under sections 290.600 through 290.642, or any threat, discharge, suspension, demotion, reduction of hours, or any other adverse action against an employee for the exercise of any right guaranteed herein. "Retaliatory personnel action" shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding, or hearing under sections 290.600 through 290.642.

(13) "Same hourly rate", means the following:

(a) For employees paid on the basis of a single hourly rate, the same hourly rate shall be the employee's regular hourly rate.

(b) For employees who are paid multiple hourly rates of pay from the same employer, the same hourly rate shall be either:

(i) the wages the employee would have been paid for the hours absent during use of earned paid sick time if the employee had worked; or,

(ii) the weighted average of all hourly rates of pay during the previous pay period.

Whatever method the employer uses, the employer must use a consistent method for each employee throughout a year.

(c) For employees who are paid a salary, the same hourly rate shall be determined by dividing the wages the employee earns in the previous pay period by the total number of hours worked during the previous pay period. For determining total number of hours worked during the previous pay period, employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1), the Fair Labor Standards Act, shall be assumed to work 40 hours in each work week unless their normal work week is less than 40 hours, in which case earned paid sick time shall accrue and the same hourly rate shall be calculated based on the employee's normal work week. Regardless of the basis used, the same hourly rate shall not be less than the effective minimum wage specified in section 290.502.

(d) For employees paid on a piece rate or a fee-for-service basis, the same hourly rate shall be a reasonable calculation of the wages or fees the employee would have received for the piece work, service, or part thereof, if the employee had worked. Regardless of the basis used, the same hourly rate shall not be less than the effective minimum wage specified in section 290.502.

(e) For employees who are paid on a commission basis (whether base wage plus commission or commission only), the same hourly rate shall be the greater of the base wage or the effective minimum wage specified in section 290.502.

(f) For employees who receive and retain compensation in the form of gratuities in addition to wages, the same hourly rate shall be the greater of the employee's regular hourly rate or 100% of the effective minimum wage specified in section 290.502 without deduction of any tips as a credit.

(14) "Sexual assault", as such term is defined in section 455.010.

(15) "Stalking", as such term is defined in section 455.010.

(16) "Year", a regular and consecutive twelve-month period as determined by the employer; except that for the purposes of section 290.615 and section 290.627, "year" shall mean a calendar year.

290.603. 1. Employees of an employer with fifteen or more employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to use more than fifty-six hours of earned paid sick time per year, unless the employer selects a higher limit.

2. Employees of an employer with fewer than fifteen employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to use more than forty hours of earned paid sick time per year, unless the employer selects a higher limit.

3. In determining the number of employees of an employer, all employees performing work in the state for an employer for compensation on a full-time, part-time, or temporary basis shall be counted. In situations in which the number of employees performing work in the state for an employer for compensation per week fluctuates above and below 15 employees per week over the course of a year, an employer is required to provide earned paid sick time pursuant to subsection (1) of this section if it maintained fifteen or more employees in the state on the payroll for some portion of a working day in each of twenty or more different calendar weeks, including any periods of leave, and whether or not the weeks were consecutive, in either the current or the preceding year (irrespective of whether the same individuals were in employment in each working day).

4. All employees shall accrue earned paid sick time as follows:

(A) Earned paid sick time as provided in this section shall begin to accrue at the commencement of employment or on the date this law goes into effect, whichever is later. An employee shall be entitled to use earned paid sick time as it is accrued. An employer may provide all earned paid sick time that an employee is expected to accrue in a year at the beginning of the year.

(B) Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work forty hours in each work week for purposes of earned paid sick time accrual unless their normal work week is less than forty hours, in which case earned paid sick time accrues based upon that normal work week.

(C) Earned paid sick time shall be carried over to the following year, but this law does not require an employer to permit an employee to use more than the applicable number of hours of earned paid sick time per year as set forth in subsection (1) and (2) of this section. Alternatively, in lieu of carryover of unused earned paid sick time from one year to the next, an employer may pay an employee for unused earned paid sick time at the end of a year and provide the employee with an amount of paid sick time that meets or exceeds the requirements of sections 290.600 through 290.642 that is available for the employee's immediate use at the beginning of the subsequent year.

(D) If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity, or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within nine months of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.

(E) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

(F) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

5. Any employer with a paid leave policy, such as a paid time off policy, or a collective bargaining agreement that makes available an amount of paid leave sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as earned paid sick time under sections 290.600 through 290.642 is not required to provide additional paid sick time under this section.

6. Except as specifically provided in this section, nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued earned paid sick time that has not been used.

290.606. 1. Earned paid sick time shall be provided to an employee by an employer for:

(A) An employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; an employee's need for preventative medical care;

(B) Care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; care of a family member who needs preventative medical care;

(C) Closure of the employee's place of business by order of a public official due to a public health emergency, or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease; or

(D) Absence necessary due to domestic violence, sexual assault, or stalking, provided the leave is to allow the employee to obtain for the employee or the employee's family member:

(i) Medical attention needed to recover from physical or psychological injury or disability caused by domestic violence, sexual assault, or stalking;

(ii) Services from a victim services organization;

(iii) Psychological or other counseling;

(iv) Relocation or taking steps to secure an existing home due to the domestic violence, sexual assault, or stalking; or

(v) Legal services, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence, sexual assault, or stalking.

2. Earned paid sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means, or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.

3. When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer. Where such need is not foreseeable, an employer may require an employee to provide notice of the need for the use of earned paid sick time as soon as practicable.

4. An employer that requires notice of the need to use earned paid sick time where the need is not foreseeable shall provide a written policy that contains procedures for the employee to provide notice. An employer that has

not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.

5. An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

6. Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

7. For earned paid sick time of three or more consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used for a purpose covered by subsection (1) of this section.

(A) Documentation signed by a heath care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section.

(B) In cases of domestic violence, sexual assault, or stalking, if the employer requests, one of the following types of documentation selected by the employee shall be considered reasonable documentation: (i) a police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking, (ii) a written statement from an employee or agent of a victim service provider affirming that the employee or employee's family member is or was receiving services from a victim service provider; (iii) documentation signed by a health care professional from whom the employee or employee's family member sought assistance relating to domestic violence, sexual assault, or stalking or the effects thereof; (vi) a court document indicating that an employee or employee's family member is or was involved in a legal action related to domestic violence, sexual assault, or stalking; or (v) a written statement from the employee affirming that the employee or employee's family member is taking or took earned paid sick time for a qualifying purpose of subsection (1) of this section.

(C) An employer may not require that the documentation explain the nature of the illness, details of the underlying health needs, or the details of the domestic violence, sexual assault, or stalking, unless otherwise required by law.

290.609. 1. It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under sections 290.600 through 290.642.

2. An employer shall not take retaliatory personnel action or discriminate against an employee or former employee because the individual has exercised rights protected under sections 290.600 through 290.642. Such rights include, but are not limited to, the right to request or use earned paid sick time pursuant to sections 290.600 through 290.642; the right to file a complaint or inform any person about any employer's alleged violation of sections 290.600 through 290.642; the right to participate in any investigation, hearing, or proceeding or cooperate with or assist the Department in any investigations of alleged violations of sections 290.600 through 290.642; and the right to inform any person of his or her potential rights under sections 290.600 through 290.642.

3. It shall be unlawful for an employer's absence control policy to count earned paid sick time taken under sections 290.600 through 290.642 as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

4. Protections of this section shall apply to any individual who mistakenly but in good faith alleges violations of sections 290.600 through 290.642.

290.612. 1. Employers shall give employees a written notice about earned paid sick time within fourteen calendar days of the commencement of employment or within ninety days of the effective date of this law, whichever is later, which must include the following information: (1) employees accrue and are entitled to earned paid sick time at the rate one hour of earned paid sick time for every 30 hours of work, and may use earned paid sick time, subject to the terms under sections 290.600 through 290.642 of Missouri law, (2) it is prohibited for an employer to take retaliatory personnel action against employees who request or use earned paid sick time as allowed by law, (3) each employee has the right to bring a civil action if earned paid sick time as required by sections 290.600 through 290.642 is denied by the employer or the employee is subjected to retaliatory personnel action by the employer for exercising the employee's rights under sections 290.600 through 290.642; and, (4) the contact information for the Department. Notice shall be provided by the Employer to the employee on a single piece of paper, at least 8.5 x 11, in no less than 14-point font.

2. Employers shall display a poster that contains the information required in subsection (1) of this section in a conspicuous and accessible place in each establishment where such employees are employed, provided that such poster has been provided by the Department.

3. The Department may create and make available to employers, model notices and posters that contain the information required under subsection (1) of this section for employers' use in complying with subsections (1) and (2) of this section. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department creating or making available notices or posters.

290.615. 1. Employers shall retain records documenting hours worked by employees and earned paid sick time taken by employees, for a period of not less than three years, and shall allow the Department access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of sections 290.600 through 290.642.

2. To the extent permitted by law, the Director may inspect such records, and the records shall be open for inspection by the Director by appointment. Where the records required under this section are kept outside the state, the records shall be made available to the Director upon demand. Every such employer shall furnish to the Director on demand a sworn statement of time records and information upon forms prescribed or approved by the Director. All the records and information obtained by the Department are confidential and shall be disclosed only on order of a court of competent jurisdiction.

3. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department or Director accessing or inspecting records or creating forms relating to the inspection of records.

290.618. 1. The Department may, in accordance with chapter 536, promulgate rules for the implementation, enforcement, and administration of sections 290.600 through 290.642. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

2. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the promulgation or adoption of rules.

290.621. 1. The Department may investigate and ascertain compliance with sections 290.600 through 290.642, establish and implement a system to receive complaints regarding non-compliance with sections 290.600 through 290.642 and to investigate and attempt to resolve complaints between the complainant and the subject of the complaint, and establish additional means of enforcement, including requiring by subpoena the testimony of witnesses and production of books, records, and other evidence relative to any matter under investigation or hearing, issuing notices of violation, holding hearings on notices of violation, making determinations, recovering unpaid earned sick time, and imposing fines for willful violations of up to $500 per day of each day of a continuing violation. A final decision of the department is subject to review in accordance with the provisions of chapter 536.

2. The Department may develop and implement an outreach program to inform employees, parents, and persons who are under the care of a health care provider about the availability of earned paid sick time under sections 290.600 through 290.642. This program may include the distribution of notices and other written materials to child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers in Missouri.

3. A municipality, county, city, town, or village may adopt ordinances, rules, and regulations to investigate and ascertain compliance with sections 290.600 through 290.642, establish and implement a system to receive complaints regarding non-compliance with sections 290.600 through 290.642 and to investigate and attempt to resolve complaints between the complainant and the subject of the complaint, and establish additional means of enforcement, with respect to employers within, or employees performing work while physically present in, the geographic boundaries of the municipality, county, city, town, or village. Any such ordinance, rule, or regulation shall be consistent with this law and any Department rules or regulations and system for compliance and enforcement. The municipality, county, city, town, or village may exercise such powers as allowed by any applicable charter or ordinance, including requiring by subpoena the testimony of witnesses and production of books, records, and other evidence relative to any matter under investigation or hearing, issuing notices of violation, holding hearings on notices of violation, making determinations, recovering unpaid earned sick time, and imposing fines for willful violations of up to the maximum allowed for an ordinance violation. Before investigating or seeking to resolve any complaint between the complainant and the subject of the complaint, the municipality, county, city, town, or village shall give notice to the Department with a copy of the complaint and, within 14 days of such notice, the Department may intervene as of right and participate in the matter to ensure that the complaint is being investigated and resolved in the interest of effective enforcement of sections 290.600 through 290.642 or, alternatively, the Department may institute its own proceedings in which case the municipality, county, city, town, or village shall refrain from acting on the matter so long as the complaint is being investigated and resolved in the interest of effective enforcement of sections 290.600 through 290.642. If the Department does not, within 14 days, intervene or instigate its own proceedings, the municipality, county, city, town, or village may, without the Department, investigate and attempt to resolve the complaint and take other additional means as permitted to enforce sections 290.600 through 290.642 against the subject of the complaint. In no event shall an employer be subject to compliance proceedings arising out of a single set of facts after having already been subjected to a final compliance order by another government entity.

4. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department, a municipality, county, city, town, or village conducting investigations and ascertaining compliance with sections 290.600 through 290.642, establishing and implementing a system to receive, investigate, or resolve complaints, establishing additional means of enforcement, or conducting outreach and education, including the creation of notices and other written materials, concerning sections 290.600 through 290.642.

290.624. 1. Any employer who willfully violates or fails to comply with any of the provisions and requirements of sections 290.600 through 290.642 shall be guilty of a class C misdemeanor; provided, however,

that an employer who willfully violates the notice and posting requirements of section 290.612 shall be guilty of an infraction.

2. For purposes of this section, each day of violation or failure to comply and each employee affected shall constitute a separate offense.

290.627. 1. Any individual who claims to have been aggrieved by a failure of an employer to comply with any portion of sections 290.600 through 290.642, including but not limited to the failure to provide earned paid sick time or to allow employees to use such time consistent with sections 290.600 through 290.642, or who claims to have suffered a retaliatory personnel action, shall have a right of action and may commence a civil action in the appropriate court of jurisdiction within three years of the accrual of the cause of action, to obtain appropriate relief with respect to such unlawful violation. Such action may be brought without first filing an administrative complaint.

2. In a civil action under this section, if the court finds a violation has occurred, the court may grant as relief, as it deems appropriate and to the extent permitted by law, any permanent or temporary injunction, the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of sections 290.600 through 290.642, an additional amount equal to twice any unpaid earned sick time as liquidated damages, costs, and reasonable attorney's fees as may be allowed by the court, and other legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, reinstatement to employment and back pay.

290.630. 1. Except as otherwise required by law, an employer may not require disclosure of details relating to an employee's or an employee's family member's health information, domestic violence, sexual assault, or stalking as a condition of providing earned paid sick time under sections 290.600 through 290.642.

2. Unless as otherwise required by law, any health or safety information possessed by an employer regarding an employee or employee's family member must:

(A) be maintained on a separate form and in a separate file from other personnel information;

(B) be treated as confidential medical records; and

(C) not be disclosed except to the affected employee or with the express written permission of the affected employee.

290.633. 1. Nothing in sections 290.600 through 290.642 shall be deemed to interfere, impede, or otherwise diminish the right of employees to bargain collectively through representatives of their own choosing in order to establish earned paid sick time or other conditions of work in excess of the applicable minimum standards under the provisions of sections 290.600 through 290.642.

2. Any waiver by an employee of rights under sections 290.600 through 290.642 shall be deemed contrary to public policy and shall be void.

290.636. 1. Nothing in sections 290.600 through 290.642 shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the one required herein.

2. Nothing in sections 290.600 through 290.642 shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous paid sick time to an employee than required herein. Nothing in sections 290.600 through 290.642 shall be construed as diminishing the rights of public employees regarding paid sick time or use of paid sick time as provided in the laws of Missouri and ordinances of political subdivisions pertaining to public employees.

290.639. 1. Sections 290.600 through 290.642 provide minimum requirements pertaining to earned paid sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of earned paid sick time or that extends other protections to employees.

2. Nothing in sections 290.600 through 290.642 shall be interpreted or applied to create a power or obligation contrary to any federal law, rule, or regulation.

290.642. Except as detailed in section 290.618, all of the provisions of sections 290.600 through 290.642 are severable, and if any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.600 through 290.642 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application, and to this end the provisions of sections 290.600 through 290.642 are declared severable.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-032)

Subject

Initiative petition from Lisa D'Souza regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received May 3, 2021)

Date

May 21, 2021

Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Missouri Lottery,** the **State Tax Commission,** the **Missouri Veterans Commission,** the **Missouri Ethics Commission,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City**

Board of Election Commissioners, the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Children's Trust Fund of Missouri,** the **Missouri Joint Municipal Electric Utility Commission,** the **State Auditor's office,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Missouri Gaming Commission,** the **Municipal League of Metro St. Louis, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Amy Blouin, President & CEO, Missouri Budget Project provided information to the State Auditor's office.

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated they defer to the Office of Administration for response to this initiative petition.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact. This proposal excludes state employees.

Officials from the **Department of Labor and Industrial Relations** indicated:

Space is required for 10 full time employees (FTE) X 200 square feet per FTE X $20.70 per square foot = $41,400. This FTE will be located in Cole County.

Small business will be required to comply with the law and grant employees one hour of sick leave for every thirty hours worked. The rate of pay for each hour taken in sick leave is determined by a formula that takes into account the individual employee's hourly rate (or its equivalent for salaried employees) plus a calculation of current fringe benefits. This mandate will apply to all employers in the state, regardless of size, who are not currently providing an equal or greater sick leave benefit. Employers with 15 or more employees will be required to allow the use of 56 hours of sick leave per year and those with under 15 employees will need to allow the use of 40 hours per year.

Based on the most recent data available through the Quarterly Census of Employment and Wages (QCEW), there were an average of 200,711 non-construction-related employers in Missouri for 2020, with roughly 169,120 of those employing less than 15 staff (442,275 total employees), and roughly 31,620 employ 15 or more staff (2,105,875 total employees). Assuming the average hourly wage of $24.29/hour for Missouri in 2020 and the more recent Bureau of Labor Statistic for the state that roughly 60% of employers do no provide paid leave to employees, the estimated costs to businesses as a result of this language would be:

- Up to $257,828,634 for employers with less than 15 employees at 40/hours per year.
- Up to $1,718,697,246 for employers with 15 or more employees at 56/hours per year.

This level of mandate of small businesses will be extremely costly for thousands of employers, especially considering that the allowable reasons to use sick leave are broad and include a variety of physical and mental illnesses as well as the ability to use such leave to prepare for designated legal proceedings. The ability to use such leave is allowed for "family members" which is defined broadly to extend to individuals who have no biological or legal relationship to the employee but rather stand in a relationship where the employee is "responsible for finding or arranging health or safety related care..." or has assumed an "in loco parentis" status.

Alleged failure of an employee to provide paid sick leave will subject the employer to both civil suits and criminal proceedings. Each day where an employer is found to be in violation of the law will constitute a separate offense (a C misdemeanor) along with its potentially associated fines and/or jail time.

This proposal would authorize the Department of Labor & Industrial Relations (DOLIR) to investigate allegations of non-compliance, to subpoena records, hold hearings, adjudicate such disputes and to issue fines in the amount of $500 for each day of a violation.

They estimate it would need additional FTE and ongoing costs to set up and administer the program, and a new computer system will have to be developed for this program.

Since the proposal is subject to voter approval, their estimate covers the range of costs from non-approval by voters ($0) or a decision to decline to undertake the statutorily permissible enforcement role ($0) to full implementation of the proposal.

Cost Estimate – DOLIR

They estimate the total cost to develop, administer, and maintain the program to be over $1.2 million per year (excluding benefits paid). In estimating the total costs of the program, they have used the following assumptions.

Program Operations – Sections 290.600-290.642

They estimate that three new or expanded sections will be required to administer the program: Call Center, increased staff for the Division of Labor Standards for investigative and adjudicatory functions, and an expanded administrative staff within their department to include additional attorneys in the Office of General Counsel to help conduct public hearings, administer legal process, advise on the levying of fines and to prepare cases for appeal under Chapter 536.

Call Center – Begins 1/1/23

They assume that a Call Center will be required to handle questions and concerns from claimants and employers. Based on the call volume for other programs, 3.00 Program Specialists (Range 5 - $41,929) will be required to assist callers. The section will also require 1.00 Administrative Support Assistant (Range 3 - $34,019) to provide administrative support and 1.00 Benefit Program Supervisor (Range 6 - $47,071) to manage the unit.

Section #	290.600-290.642 Program Operations - Call Center - Begins 1/1/23					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Benefit Program Specialist	5	3.00	$41,929	$62,894	$125,787	$127,045
Admin Support Asst	3	1.00	$34,019	$17,010	$34,019	$34,359
Benefit Program Supervisor	6	1.00	$47,071	$23,536	$47,071	$47,542
Total PS		**5.00**		**$103,439**	**$206,877**	**$208,946**
Fringe Benefits				**$63,152**	**$126,304**	**$126,991**
Equipment - One-Time Costs						
Standard Equipment per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	5.00	$200	$1,000		
Computer Equipment	480	5.00	$1,607	$8,035		
Office Equipment	580	5.00	$6,530	$32,650		
Total Equipment				**$41,685**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	5.00	$460	$2,300	$2,358	$2,417
Supplies	190	5.00	$372	$1,860	$1,907	$1,955
Housekeeping & Janitorial	420	5.00	$345	$1,725	$1,768	$1,812
Telecom Serv & Supp	340	5.00	$794	$3,970	$4,069	$4,171
Professional Services (Network)	400	5.00	$399	$1,995	$2,045	$2,096
Building Leases	680	5.00	$4,140	$20,700	$21,218	$21,748
Total Expenses				**$32,550**	**$33,365**	**$34,199**
Total				**$240,826**	**$366,546**	**$370,136**

Expense & Equipment (E&E)
They have utilized the standard per FTE costs when calculating operating expenses and equipment for this estimate. Additional mailing costs are detailed below.

Relief on Behalf of Affected Employees – Section 290.609.1 – Begins 1/1/23
The bill authorizes their department to bring enforcement actions against employers who do not abide by the law. This would require additional investigators, adjudicators, and attorneys.

The number of employees who would file complaints cannot be estimated at this time; however, for the sake of this estimate, they assume each case would require an average of 20 hours of attorney time and 20 hours of support staff time. For every 100 cases, 1.00 Attorney ($60,000) and 0.25 of a Paralegal ($40,000) would be required. If 100 cases are brought per year, this would require 2.00 Attorneys and 1.00 Paralegal. If there are more than 240 cases per year, and the staff are unable to absorb the additional workload, additional funding would be pursued via the appropriations process.

Standard E&E costs, along with mobile telephones and travel expenses for the Attorneys are also included in this estimate. The cost estimate assumes these cases would begin when the program becomes operational, January 1, 2023.

Section #	290.609.1 - Relief on Behalf of Affected Employees – Begins 1/1/23					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Attorney		2.00	$60,000	$60,000	$120,000	$121,200
Paralegal		1.00	$40,000	$20,000	$40,000	$40,400
Total PS		**3.00**		**$80,000**	**$160,000**	**$161,600**
Fringe Benefits				**$43,848**	**$87,696**	**$88,227**
Equipment - One-Time Costs						
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	3.00	$200	$600		
Computer Equipment	480	3.00	$1,607	$4,821		
Office Equipment	580	3.00	$6,530	$19,590		
Additional Equipment (Provide Explanation)						
Telecom-Mobile Device(s)	340	2.00	$400	$800		
Total Equipment				**$25,811**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	3.00	$460	$1,380	$1,415	$1,450
Supplies	190	3.00	$372	$1,116	$1,144	$1,173
Housekeeping & Janitorial	420	3.00	$345	$1,035	$1,061	$1,088
Telecom Serv & Supp	340	2.00	$794	$1,588	$1,628	$1,669
Professional Services (Network)	400	3.00	$399	$1,197	$1,227	$1,258
Building Leases	680	3.00	$4,140	$12,420	$12,731	$13,049
Additional Expenses (Provide Explanation)						
Travel, In-State	140	2.00	$773	$1,546	$1,585	$1,625
Telecom-Mobile Services	340	2.00	$540	$1,080	$1,107	$1,135
Total Expenses				**$21,362**	**$21,898**	**$22,447**

Outreach – Section 290.621.2

Section 290.621.2 provides for their department to develop and implement an outreach program to ensure that employees who may be eligible to receive benefits are aware of the program. The outreach program will also educate Missouri's approximately 166,282 employers. Outreach materials will be available to our partners at Missouri Job Centers, business associations, and economic development agencies and mailed to all Missouri-registered businesses quarterly.

Promotional materials, and a brochure that targets businesses while still containing information for employees might be created. They estimate the total number of brochures printed and mailed annually at 700,000.

Section #	290.621.2 - Outreach - Begins 7/1/22					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Graphic Arts Specialist III	6	0.003	$47,071	$136	$0	$0
Total PS		**0.003**		**$136**	**$0**	**$0**
Fringe Benefits				**$78**	**$0**	**$0**
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Supplies (Postage & Printing)	190	700,000	0.55	$385,000	$394,625	$404,491
Total Expenses				**$385,000**	**$394,625**	**$404,491**
Total				**$385,214**	**$394,625**	**$404,491**

Administrative Services

Since this legislation would, in effect, create a substantially expanded Division of Labor Standards within their department, it is anticipated their department will require 1.00 Deputy Division Director, and 1.00 Administrative Office Support Assistant to manage and coordinate operations of the division.

Section #	Administrative Services - begins 7/1/22					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Deputy Director		1.00	$70,000	$70,000	$70,700	$71,407
Admin Support Asst	3	1.00	$34,019	$34,019	$34,359	$34,703
Total PS		**2.00**		**$104,019**	**$105,059**	**$106,110**
Fringe Benefits				**$57,585**	**$57,930**	**$58,279**
Equipment - One-Time Costs						
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	2.00	$200	$400		
Computer Equipment	480	2.00	$1,607	$3,214		
Office Equipment	580	2.00	$6,530	$13,060		
Additional Equipment (Provide Explanation)						
Telecom-Mobile Device(s)	340	1.00	$400	$400		
Total Equipment				**$17,074**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	2.00	$460	$920	$943	$967
Supplies	190	2.00	$372	$744	$763	$782
Housekeeping & Janitorial	420	2.00	$345	$690	$707	$725
Telecom Serv & Supp	340	2.00	$794	$1,588	$1,628	$1,669
Professional Services (Network)	400	2.00	$399	$798	$818	$838
Building Leases	680	2.00	$4,140	$8,280	$8,487	$8,699
Additional Expenses (Provide Explanation)						
Travel, In-State	140	1.00	$773	$773	$792	$812
Telecom-Mobile Services	340	1.00	$540	$540	$554	$568
Total Expenses				**$14,333**	**$14,692**	**$15,060**

They further assume that additional administrative services staff will be required including legal counsel, financial management, mail services, facility management, procurement, training, and human resources. For the purposes of this estimate they project indirect costs at 5% of program operations costs (personal services and fringe benefits) beginning in fiscal year (FY) 2022. One full year of administrative costs, would be realized in FY 2022 $215,624, FY 2023 $214,874, and FY 2024 $216,957.

Standard Equipment per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Administrative 5% Indirect Costs				$22,613	$37,193	$37,508
Total Administrative Cost				**$215,624**	**$214,874**	**$216,957**

They estimate the total cost to develop, administer, and maintain the program to be over $1.2 million per year (excluding benefits paid).

	FY-2022	FY-2023	FY-2024
Personal Services	$287,594	$471,936	$476,656
Fringe Benefits	$164,663	$271,930	$273,497
Equipment and Expense	$560,428	$501,773	$513,705
Total	$1,012,684	$1,245,639	$1,263,858

Of these costs, $84,570 are one-time equipment costs in FY 2022.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's Office** indicated this proposal relating to levels of sick leave available to employees should not fiscally impact their office.

Officials from the **House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this initiative petition.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to levels of sick leave available to employees should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated no fiscal impact for their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated this petition appears to exempt local governments. However, their county already meets the requirements herein as they provide 3.69 hours of sick leave per pay period with a 1000 hour max. Therefore, there is no fiscal impact on their county.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **St. Louis County** indicated they do not have any information to provide.

Officials from the **City of Kansas City** indicated this initiative petition will have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the City of St. Louis Personnel Department has determined that the city would be exempted from the amended statutes because the definition of "employer" in chapter 290.600 specifically excludes political subdivisions of the state.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri** indicated they do not anticipate a significant financial impact.

Officials from the **Missouri Lottery** indicated no fiscal impact to their agency.

Officials from the **State Tax Commission** indicated no fiscal impact on their agency.

Officials from the **Missouri Veterans Commission** indicated this initiative petition will have no fiscal impact upon their agency. The definition of the term "employer" in the proposed section 290.600(6) RSMo explicitly excludes the State and its agencies, so the provisions of the petition would not apply to the Commission should it become law.

Officials from the **Missouri Ethics Commission** indicated they defer to the Office of Administration.

Officials from the **St. Louis County Board of Elections** indicated this would have no fiscal impact on their Board.

Officials from the **Board of Election Commissioners City of St. Louis** indicated this proposed measure would have no fiscal impact on their organization.

Officials from the **Children's Trust Fund** indicated no impact for the Office of Administration/Children's Trust Fund.

Officials from the **State Auditor's office** indicated since this proposed initiative petition does not apply to government entities, this would have no fiscal impact on their office.

Officials from the **Missouri Gaming Commission** indicated the proposal will have no fiscal impact on their agency.

Officials from **University of Central Missouri** indicated they have determined there is potential for future fiscal impact but too speculative to estimate impact.

Section 290.603 and beyond starts the portions that will have a fiscal impact. The component that every employee after 30 hours shall be granted paid sick leave is huge when you factor in student workers, temps, adjuncts, etc. Additionally, there is a provision that states that an employee rehired within 9 months of separation shall be entitled to all unused paid sick time that was on their account when they left. This is going to be a huge administrative burden and require, at minimum, the purchase of a time and attendance system that can be programmed to track all of the variations.

Section 290.627 has provisions for civil litigation, charges, and awards for damages for violation of the provisions of this act, which is where the real ambiguous component to fiscal implication and indeterminate concerns are based.

Amy Blouin, President & CEO, Missouri Budget Project provided the following information:

MBP
MISSOURI BUDGET PROJECT

Earned Sick Leave in Missouri: Costs and Savings for Employers

In addition to helping employees by allowing them to address their health needs without losing their jobs or ability to pay their bills, paid sick leave has many benefits for employers, including a healthier workforce, reduced turnover, and increased productivity. The benefits of paid sick leave have been highlighted by the current COVID-19 pandemic, illustrating the importance of workers being able to recover at home without lost wages and without risking spread of contagious disease in the workplace.

Several possible 2022 ballot measures have been filed that would require employers to provide earned sick leave in Missouri. Though the measures vary slightly, each would require employers to provide a minimum of 3-7 days of paid leave to employees, depending on hours worked and size of business. Public employees are exempt in all versions. If implemented, Missouri would join the thirteen states, plus the District of Columbia, (in addition to dozens of municipalities) who ensure employees can earn paid sick leave to care for themselves or family members.[i]

This analysis documents the number of people who may be impacted under Missouri's proposals and how access to paid sick leave reduces employer costs. Similar savings have been documented by research covering a variety of states that have implemented earned sick leave policies.[ii] The table below provides an overview of the estimated costs and savings for employers in Missouri. **We find that expanding earned sick leave to Missouri's nearly 538,000 workers without access would provide a net savings to employers of approximately $17.4 million annually.**

Estimated Costs and Savings to Employers from Earned Sick Leave in Missouri

		Cost/Savings Per Employee		
	Total Annual	**Annual**	**Weekly**	**Hourly**
Costs	$238.05M	$442.61	$8.51	$0.21
Cost for Sick Leave	$230.35M			
Cost for Parental Leave	$7.7M			
Savings	$255.45M	$474.95	$9.13	$0.23
Reduced Turnover	$147.59M			
Reduced Presenteeism	$82.27M			
Reduced Flu Contagion	$25.59M			
Net Savings	$17.4M	$32.34	$0.62	$0.02

Access to Paid Sick Leave in Missouri

Based on an analysis of data from the Missouri Department of Economic Development (MERIC), the U.S. Bureau of Labor Statistics, and the U.S. Census Bureau, we estimate that approximately one in four (or nearly 538,000) Missouri workers would be newly covered by earned sick leave provisions through the ballot measures. These workers are concentrated primarily in service, sales & office, and production, transportation, & material moving related occupations.

Estimated Number of Workers Newly Covered by Paid Sick Leave in Missouri by Occupation

Occupation	Total Employment	Share Exempt	Workers Covered by Initiatives	Share with No Sick Leave	Estimated Workers Newly Covered
Management, Business, Science, and Arts	870,750	27%	636,515	8%	**50,921**
Service	609,500	25%	458,619	41%	**188,034**
Sales and Office	674,870	16%	568,561	23%	**130,769**
Natural Resources, Construction, and Maintenance	224,740	23%	172,541	32%	**55,213**
Production, Transportation, and Material Moving	440,740	9%	403,199	28%	**112,896**
Total	**2,820,600**	**21%**	**2,239,435**	**24%**	**537,833**

Note: Estimated workers covered by paid leave initiatives calculated as the total number of employees by occupation[iii] less the share of that occupation estimated to be exempt (self-employed or local, state, and federal government workers).[iv] Workers newly covered calculated as the total number of workers covered less the share of private workforce that already has access to paid sick leave by occupation.[v]

Cost of Earned Sick Leave to Employers

Employers would be responsible for the wages and associated benefits (such as payroll taxes and insurance) of newly eligible workers who take earned sick leave. Based on average daily wages and benefits in 2019 (see Appendix for detailed calculations), we estimate that Missouri employers would spend approximately $235 million annually on wages & benefits for workers newly eligible for earned sick leave.

Estimated Annual Cost of Earned Sick Leave to Employers

	Wages	Benefits	Total
Cost for Sick Leave	$163,333,388	$67,013,220	**$230,346,608**
Cost for Parental Leave	$5,462,868	$2,241,332	**$7,704,200**
Total	**$168,796,256**	**$69,254,552**	**$238,050,808**

Note: Average cost of earned sick leave calculated as average daily cost of wages & benefits multiplied by the average number of sick days per year[vi] (2.1) taken by workers with access to paid sick leave (or in the case of parental leave an additional 4.9 days per year for a total of 7 days); annual cost per worker is then multiplied by the number of newly covered workers by occupation to determine the annual cost of compensation for workers taking earned sick leave.

Sick Leave. Employees with access to paid leave generally do not use the full amount of paid sick leave to which they are entitled annually. A typical worker with paid sick leave uses 2.1 days of sick leave a year; around 45% of employees with access to paid leave use no sick time at all in a given year.[vii] **Adjusting for average wage by occupation, the cost of wages & benefits for newly eligible employees at 2.1 days per year is $230.3 million dollars annually.**

Parental Leave. We also assume that women who give birth will use the maximum amount of annual earned sick time (or an additional 4.9 days to equal a total of 7 sick days). Each year, 72,127 Missouri women give birth.[viii] Adjusting for employment rate among women in Missouri (56%),[ix] the estimated share of women working who are exempt (21%), and the share already covered by paid sick leave (76%), we estimate that 7,709 Missouri women will use these additional sick days for maternity care annually. **The cost of wages & benefits for newly eligible women who give birth is $7.7 million annually.**

Savings from Earned Sick Leave to Employers

The cost of earned sick leave to employers is offset by significant cost savings derived from benefits such as reduced employee turnover, reduced presenteeism (employees working at reduced capacity while sick or injured), and reduced contagion in the workplace. **We estimate that Missouri employers would save at least $255.4 million annually due to the implementation of earned sick leave policies.**

Estimated Annual Savings from Earned Sick Leave to Employers

	Wages	Benefits	Total
Reduced Turnover	$104,650,035	$42,936,327	**$147,586,363**
Reduced Presenteeism	$58,333,353	$23,933,293	**$82,266,646**
Reduced Flu Contagion	$18,147,602	$7,445,687	**$25,593,288**
Total Savings	**$181,130,990**	**$74,315,307**	**$255,446,297**

Note: Reduced turnover calculated by assuming a reduction in job turnover of 2.5 percentage points for those with new access to paid sick leave[x] at a cost of 20.7% of annual wages.[xi] Reduced presenteeism calculated by assuming workers without access to paid sick leave will work an average of 1.5 days while sick or injured[xii] at 50% effectiveness. Cost of reduced flu contagion calculated based on method presented in Abay, Rosa, & Pana-Cryan Appendix 3 using average estimates.[xiii]

Reduced Turnover. Access to paid sick leave gives workers the ability to address their health needs and those of their families, without having to quit a job or risk being fired. Access to paid sick leave is associated with reduced job turnover, which in turn creates significant savings for businesses.[xiv] **We estimate that Missouri employers will save $147.6 million annually due to reduced turnover in the workplace.**

Reduced Presenteeism. Employers who do not offer paid sick leave have higher rates of "presenteeism" or lost productivity due to employees working while injured or sick.[xv] Offering paid sick leave reduces the likelihood of working at reduced capacity and allows workers to recover from illness or injury more quickly. **We estimate that Missouri employers will save $82.3 million annually due to reduced presenteeism in the workplace.**

Reduced Flu Contagion. Workers without paid sick leave are more likely to come to work sick, increasing the likelihood of spreading the illness to other workers.[xvi] Access to paid sick leave allows workers to stay home when ill, reducing absenteeism related to contagious disease such as influenza. **We estimate that Missouri employers will save $25.6 million annually due to reduced flu contagion in the workplace.**

Appendix

Average Daily Wages & Benefits Used for Cost/Savings Calculations

Occupation	Average Hourly Wage	Average Work Hours/Day	Daily Estimated Average		
			Wage	Benefits	Total Compensation
Management, business, science, and arts	$34.93	7.41	$258.82	$113.11	$371.93
Service	$13.58	7.48	$101.57	$30.99	$132.56
Sales and Office	$18.79	7.20	$135.31	$52.37	$187.68
Natural Resources, Construction, and Maintenance	$24.39	8.11	$197.89	$93.93	$291.83
Production, Transportation, and Material Moving	$18.16	8.23	$149.51	$73.43	$222.94

Note: Average daily wage estimated by occupation using the average hourly wage by occupation[xvii] multiplied by average daily work hours by occupation.[xviii] The annual cost of benefits is calculated using the average cost of benefits as a share of total compensation by occupation.[xix] Total compensation equals the total cost of wages and benefits to employer.

Notes

i. All Missouri Workers Must Have Paid Sick Days to Open the Economy." National Partnership for Women & Families, 2020, www.nationalpartnership.org/our-work/economic-justice/frontline-workers/missouri.html.

ii. See Lovell, V. (2005). Valuing good health: An estimate of costs and savings for the Healthy Families Act. Washington, DC: Institute for Women's Policy Research.; See McKee & Milli (2019). Valuing good health in Massachusetts: The Costs and Benefits of Earned Sick Days. Washington, DC: Institute for Women's Policy Research.

iii. Occupational Employment and Wage Estimates (OES) provided by the Missouri Department of Economic Development/MERIC in cooperation with the U.S. Department of Labor Bureau of Labor Statistics (BLS).

iv. U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates. Table C24060: Occupation By Class Of Worker For The Civilian Employed Population 16 Years And Over.

v. National Compensation Survey: Employee Benefits in the United States, March 2020. U. S. Bureau of Labor Statistics (BLS).

vi. Xia, J., Hayes, J., Gault, B., & Nguyen, H. (2016). Paid sick days access and usage rates vary by race/ethnicity, occupation, and earnings. Institute for Women's Policy Research. February, 17.

vii. Xia, J., Hayes, J., Gault, B., & Nguyen, H. (2016). Paid sick days access and usage rates vary by race/ethnicity, occupation, and earnings. Institute for Women's Policy Research. February, 17.

viii. Martin, J. A., Hamilton, B. E., JK, O. M., & Driscoll, A. K. (2021). Births: Final Data for 2019.

ix. U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates. Table DP03: Selected Economic Characteristics

x. Hill, H. D. (2013). Paid sick leave and job stability. Work and occupations, 40(2), 143-173.

xi. Boushey, H., & Glynn, S. J. (2012). There are significant business costs to replacing employees. Center for American Progress, 16, 1-9.

xii. DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016). Workers without paid sick leave less likely to take time off for illness or injury compared to those with paid sick leave. Health Affairs, 35(3), 520-527.

xiii. Abay Asfaw, D., Rosa, R., & Pana-Cryan, R. (2017). Potential economic benefits of paid sick leave in reducing absenteeism related to the spread of influenza-like illness. Journal of occupational and environmental medicine, 59(9), 822.

xiv. Hill, H. D. (2013). Paid sick leave and job stability. Work and occupations, 40(2), 143-173.

xv. DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016). Workers without paid sick leave less likely to take time off for illness or injury compared to those with paid sick leave. Health Affairs, 35(3), 520-527.

xvi. Abay Asfaw, D., Rosa, R., & Pana-Cryan, R. (2017). Potential economic benefits of paid sick leave in reducing absenteeism related to the spread of influenza-like illness. Journal of occupational and environmental medicine, 59(9), 822.

xvii. Occupational Employment and Wage Estimates (OES) provided by the Missouri Department of Economic Development/MERIC in cooperation with the U.S. Department of Labor Bureau of Labor Statistics (BLS)

xviii. Bureau of Labor Statistics (BLS) American Time Use Survey – 2019 results.

xix. U.S. Bureau of Labor Statistics Employer Costs for Employee Compensation – December 2020. Table 4: Employer Costs for Employee Compensation for private industry workers by occupational and industry group

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, St. Louis Community College,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Missouri Joint Municipal Electric Utility Commission,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Municipal League of Metro St. Louis, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Fiscal Note Summary

State governmental entities estimate no savings, one-time costs ranging from $0 to at least $84,000, and ongoing costs ranging from $0 to $1.2 million per year by 2024. Local governmental entities estimate no costs or savings.

RECEIVED
MAY 03 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 3, 2021

RECEIVED
MAR 03 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lisa D'Souza regarding a proposed statutory amendment to Chapter 290, version 5 (2022-031)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lisa D'Souza on May 3, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John (Jay) Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022 and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2021 MAY -3 AM 10:04

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of Payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 20____.

Notary Public (Seal)

_____

Signature of Notary

My commission expires

_____.

_____

Address of Notary (Street, City, State & Zip Code)

Be it enacted by the people of the State of Missouri:

Fifteen new sections to be known as sections 290.600, 290.603, 290.606, 290.609, 290.612, 290.615, 290.618, 290.621, 290.624, 290.627, 290.630, 290.633, 290.636, 290.639, and 290.642 are enacted to read as follows:

290.600. As used in sections 290.600 through 290.642:

(1) "Department", Department of Labor and Industrial Relations.

(2) "Director", Director of the Department of Labor and Industrial Relations.

(3) "Domestic violence", as such term is defined in section 455.010.

(4) "Earned paid sick time", time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in section 290.606, but in no case shall this hourly amount be less than that provided under section 290.502.

(5) "Employee", any individual employed in this state by an employer, but does not include:

(A) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to the organization are on a voluntary basis;

(B) Any individual standing in loco parentis to foster children in their care;

(C) Any individual employed for less than four months in any year in a resident or day camp for children or youth, or any individual employed by an educational conference center operated by an educational, charitable or not-for-profit organization;

(D) Any individual engaged in the activities of an educational organization where employment by the organization is in lieu of the requirement that the individual pay the cost of tuition, housing or other educational fees of the organization or where earnings of the individual employed by the organization are credited toward the payment of the cost of tuition, housing or other educational fees of the organization;

(E) Any individual employed on or about a private residence on an occasional basis for six hours or less on each occasion;

(F) Any individual employed on a casual basis to provide baby-sitting services;

(G) Any individual employed by an employer subject to the provisions of part A of subtitle IV of title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;

(H) Any individual employed on a casual or intermittent basis as a golf caddy, newsboy, or in a similar occupation;

(I) Any individual who is employed in any government position defined in 29 U.S.C. §§ 203(e)(2)(C)(i)-(ii);

(J) Any individual employed by a retail or service business whose annual gross volume sales made or business done is less than five hundred thousand dollars;

(K) Any individual who is an offender, as defined in section 217.010, who is incarcerated in any correctional facility operated by the department of corrections, including offenders who provide labor or services on the grounds of such correctional facility pursuant to section 217.550; or,

(L) Any individual described by the provisions of section 29 U.S.C. 213(a)(8).

(6) "Employer", any person acting directly or indirectly in the interest of an employer in relation to an employee; provided, however, that for the purposes of sections 290.600 through 290.642 "employer" does not include the United States Government, the state, or a political subdivision of the state, including a department, agency, officer, bureau, division, board, commission, or instrumentality of the state, or a city, county, town, village, school district, public higher education institution, or other political subdivision of the state.

(7) "Family member", any of the following individuals:

(A) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor;

(B) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or an individual who stood in loco parentis when the employee or employee's spouse or domestic partner was a minor child;

(C) An individual to whom the employee is legally married under the laws of any state, or a domestic partner who is registered as such under the laws of any state or political subdivision;

(D) A grandparent, grandchild, or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or

(E) A person for whom the employee is responsible for providing or arranging health or safety-related care, including but not limited to helping that individual obtain diagnostic, preventative, routine, or therapeutic health treatment or ensuring the person is safe following domestic violence, sexual assault, or stalking.

(8) "Health care professional," any individual licensed under federal or any state law to provide medical or emergency services, including but not limited to doctors, nurses, certified nurse midwives, mental health professionals, and emergency room personnel.

(9) "Person", any individual, partnership, association, corporation, business, business trust, legal representative, or any organized group of persons.

(10) "Retaliatory personnel action", denial of any right guaranteed under sections 290.600 through 290.642, or any threat, discharge, suspension, demotion, reduction of hours, or any other adverse action against an employee for the exercise of any right guaranteed herein. "Retaliatory personnel action" shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding, or hearing under sections 290.600 through 290.642.

(11) "Same hourly rate", means the following:

(a) For employees paid on the basis of a single hourly rate, the same hourly rate shall be the employee's regular hourly rate.

(b) For employees who are paid multiple hourly rates of pay from the same employer, the same hourly rate shall be either:

(i) the wages the employee would have been paid for the hours absent during use of earned paid sick time if the employee had worked; or,

(ii) the weighted average of all hourly rates of pay during the previous pay period.

Whatever method the employer uses, the employer must use a consistent method for each employee throughout a year.

(c) For employees who are paid a salary, the same hourly rate shall be determined by dividing the wages the employee earns in the previous pay period by the total number of hours worked during the previous pay period. For determining total number of hours worked during the previous pay period, employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1), the Fair Labor Standards Act, shall be assumed to work 40 hours in each work week unless their normal work week is less than 40 hours, in which case earned paid sick time shall accrue and the same hourly rate shall be calculated based on the employee's normal work week. Regardless of the basis used, the same hourly rate shall not be less than the effective minimum wage specified in section 290.502.

(d) For employees paid on a piece rate or a fee-for-service basis, the same hourly rate shall be a reasonable calculation of the wages or fees the employee would have received for the piece work, service, or part thereof, if the employee had worked. Regardless of the basis used, the same hourly rate shall not be less than the effective minimum wage specified in section 290.502.

(e) For employees who are paid on a commission basis (whether base wage plus commission or commission only), the same hourly rate shall be the greater of the base wage or the effective minimum wage specified in section 290.502.

(f) For employees who receive and retain compensation in the form of gratuities in addition to wages, the same hourly rate shall be the greater of the employee's regular hourly rate or 100% of the effective minimum wage specified in section 290.502 without deduction of any tips as a credit.

(12) "Sexual assault", as such term is defined in section 455.010.

(13) "Stalking", as such term is defined in section 455.010.

(14) "Year", a regular and consecutive twelve-month period as determined by the employer; except that for the purposes of section 290.615 and section 290.627, "year" shall mean a calendar year.

290.603. 1. Employees of an employer with fifteen or more employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to use more than fifty-six hours of earned paid sick time per year, unless the employer selects a higher limit.

2. Employees of an employer with fewer than fifteen employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to use more than forty hours of earned paid sick time per year, unless the employer selects a higher limit.

3. In determining the number of employees of an employer, all employees performing work in the state for an employer for compensation on a full-time, part-time, or temporary basis shall be counted. In situations in which the number of employees performing work in the state for an employer for compensation per week fluctuates above and below 15 employees per week over the course of a year, an employer is required to provide earned paid sick time pursuant to subsection (1) of this section if it maintained fifteen or more employees in the state on the payroll for some portion of a working day in each of twenty or more different calendar weeks, including any periods of leave, and whether or not the weeks were consecutive, in either the current or the preceding year (irrespective of whether the same individuals were in employment in each working day).

4. All employees shall accrue earned paid sick time as follows:

(A) Earned paid sick time as provided in this section shall begin to accrue at the commencement of employment or on the date this law goes into effect, whichever is later. An employee shall be entitled to use earned paid sick time as it is accrued. An employer may provide all earned paid sick time that an employee is expected to accrue in a year at the beginning of the year.

(B) Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work forty hours in each work week for purposes of earned paid sick time accrual unless their normal work week is less than forty hours, in which case earned paid sick time accrues based upon that normal work week.

(C) Earned paid sick time shall be carried over to the following year, but this law does not require an employer to permit an employee to use more than the applicable number of hours of earned paid sick time per year as set forth in subsection (1) and (2) of this section. Alternatively, in lieu of carryover of unused earned

paid sick time from one year to the next, an employer may pay an employee for unused earned paid sick time at the end of a year and provide the employee with an amount of paid sick time that meets or exceeds the requirements of sections 290.600 through 290.642 that is available for the employee's immediate use at the beginning of the subsequent year.

(D) If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity, or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within nine months of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.

(E) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

(F) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

5. Any employer with a paid leave policy, such as a paid time off policy, or a collective bargaining agreement that makes available an amount of paid leave sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as earned paid sick time under sections 290.600 through 290.642 is not required to provide additional paid sick time under this section.

6. Except as specifically provided in this section, nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued earned paid sick time that has not been used.

290.606. 1. Earned paid sick time shall be provided to an employee by an employer for:

(A) An employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; an employee's need for preventative medical care;

(B) Care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; care of a family member who needs preventative medical care;

(C) Closure of the employee's place of business by order of a public official due to a public health emergency, or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease; or

(D) Absence necessary due to domestic violence, sexual assault, or stalking, provided the leave is to allow the employee to obtain for the employee or the employee's family member:

(i) Medical attention needed to recover from physical or psychological injury or disability caused by domestic violence, sexual assault, or stalking;

(ii) Services from a victim services organization;

(iii) Psychological or other counseling;

(iv) Relocation or taking steps to secure an existing home due to the domestic violence, sexual assault, or stalking; or

(v) Legal services, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence, sexual assault, or stalking.

2. Earned paid sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means, or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.

3. When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer. Where such need is not foreseeable, an employer may require an employee to provide notice of the need for the use of earned paid sick time as soon as practicable.

4. An employer that requires notice of the need to use earned paid sick time where the need is not foreseeable shall provide a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.

5. An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

6. Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

7. For earned paid sick time of three or more consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used for a purpose covered by subsection (1) of this section.

(A) Documentation signed by a heath care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section.

(B) In cases of domestic violence, sexual assault, or stalking, if the employer requests, one of the following types of documentation selected by the employee shall be considered reasonable documentation: (i) a police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking, (ii) a written statement from an employee or agent of a victim service provider affirming that the employee or employee's family member is or was receiving services from a victim service provider; (iii) documentation signed by a health care professional from whom the employee or employee's family member sought assistance relating to domestic violence, sexual assault, or stalking or the effects thereof; (vi) a court document indicating that an employee or employee's family member is or was involved in a legal action related to domestic violence, sexual assault, or stalking; or (v) a written statement from the employee affirming that the employee or employee's family member is taking or took earned paid sick time for a qualifying purpose of subsection (1) of this section.

(C) An employer may not require that the documentation explain the nature of the illness, details of the underlying health needs, or the details of the domestic violence, sexual assault, or stalking, unless otherwise required by law.

290.609. 1. It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under sections 290.600 through 290.642.

2. An employer shall not take retaliatory personnel action or discriminate against an employee or former employee because the individual has exercised rights protected under sections 290.600 through 290.642. Such rights include, but are not limited to, the right to request or use earned paid sick time pursuant to sections 290.600 through 290.642; the right to file a complaint or inform any person about any employer's alleged violation of sections 290.600 through 290.642; the right to participate in any investigation, hearing, or proceeding or cooperate with or assist the Department in any investigations of alleged violations of sections 290.600 through 290.642; and the right to inform any person of his or her potential rights under sections 290.600 through 290.642.

3. It shall be unlawful for an employer's absence control policy to count earned paid sick time taken under sections 290.600 through 290.642 as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

4. Protections of this section shall apply to any individual who mistakenly but in good faith alleges violations of sections 290.600 through 290.642.

290.612. 1. Employers shall give employees a written notice about earned paid sick time within fourteen calendar days of the commencement of employment or within ninety days of the effective date of this law, whichever is later, which must include the following information: (1) employees accrue and are entitled to earned paid sick time at the rate one hour of earned paid sick time for every 30 hours of work, and may use earned paid sick time, subject to the terms under sections 290.600 through 290.642 of Missouri law, (2) it is prohibited for an employer to take retaliatory personnel action against employees who request or use earned paid sick time as allowed by law, (3) each employee has the right to bring a civil action if earned paid sick time as required by sections 290.600 through 290.642 is denied by the employer or the employee is subjected to retaliatory personnel action by the employer for exercising the employee's rights under sections 290.600 through 290.642; and, (4) the contact information for the Department. Notice shall be provided by the Employer to the employee on a single piece of paper, at least 8.5 x 11, in no less than 14-point font.

2. Employers shall display a poster that contains the information required in subsection (1) of this section in a conspicuous and accessible place in each establishment where such employees are employed, provided that such poster has been provided by the Department.

3. The Department may create and make available to employers, model notices and posters that contain the information required under subsection (1) of this section for employers' use in complying with subsections (1) and (2) of this section. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department creating or making available notices or posters.

290.615. 1. Employers shall retain records documenting hours worked by employees and earned paid sick time taken by employees, for a period of not less than three years, and shall allow the Department access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of sections 290.600 through 290.642.

2. To the extent permitted by law, the Director may inspect such records, and the records shall be open for inspection by the Director by appointment. Where the records required under this section are kept outside the state, the records shall be made available to the Director upon demand. Every such employer shall furnish to the Director on demand a sworn statement of time records and information upon forms prescribed or approved by the Director. All the records and information obtained by the Department are confidential and shall be disclosed only on order of a court of competent jurisdiction.

3. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department or Director accessing or inspecting records or creating forms relating to the inspection of records.

290.618. 1. The Department may, in accordance with chapter 536, promulgate rules for the implementation, enforcement, and administration of sections 290.600 through 290.642. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

2. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the promulgation or adoption of rules.

290.621. 1. The Department may investigate and ascertain compliance with sections 290.600 through 290.642, establish and implement a system to receive complaints regarding non-compliance with sections 290.600 through 290.642 and to investigate and attempt to resolve complaints between the complainant and the subject of the complaint, and establish additional means of enforcement, including requiring by subpoena the testimony of witnesses and production of books, records, and other evidence relative to any matter under investigation or hearing, issuing notices of violation, holding hearings on notices of violation, making determinations, recovering unpaid earned sick time, and imposing fines for willful violations of up to $500 per day of each day of a continuing violation. A final decision of the department is subject to review in accordance with the provisions of chapter 536.

2. The Department may develop and implement an outreach program to inform employees, parents, and persons who are under the care of a health care provider about the availability of earned paid sick time under sections 290.600 through 290.642. This program may include the distribution of notices and other written materials to child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers in Missouri.

3. A municipality, county, city, town, or village may adopt ordinances, rules, and regulations to investigate and ascertain compliance with sections 290.600 through 290.642, establish and implement a system to receive complaints regarding non-compliance with sections 290.600 through 290.642 and to investigate and attempt to resolve complaints between the complainant and the subject of the complaint, and establish additional means of enforcement, with respect to employers within, or employees performing work while physically present in, the geographic boundaries of the municipality, county, city, town, or village. Any such ordinance, rule, or regulation shall be consistent with this law and any Department rules or regulations and system for compliance and enforcement. The municipality, county, city, town, or village may exercise such powers as allowed by any applicable charter or ordinance, including requiring by subpoena the testimony of witnesses and production of books, records, and other evidence relative to any matter under investigation or hearing, issuing notices of violation, holding hearings on notices of violation, making determinations, recovering unpaid earned sick time, and imposing fines for willful violations of up to the maximum allowed for an ordinance violation. Before investigating or seeking to resolve any complaint between the complainant and the subject of the complaint, the municipality, county, city, town, or village shall give notice to the Department with a copy of the complaint and, within 14 days of such notice, the Department may intervene as of right and participate in the matter to ensure that the complaint is being investigated and resolved in the interest of effective enforcement of sections 290.600 through 290.642 or, alternatively, the Department may institute its own proceedings in which case the municipality, county, city, town, or village shall refrain from acting on the matter so long as the complaint is being investigated and resolved in the interest of effective enforcement of sections 290.600 through 290.642. If the Department does not, within 14 days, intervene or instigate its own proceedings, the municipality, county, city, town, or village may, without the Department, investigate and attempt to resolve the complaint and take other additional means as permitted to enforce sections 290.600 through 290.642 against the subject of the complaint. In no event shall an employer be subject to compliance proceedings arising out of a single set of facts after having already been subjected to a final compliance order by another government entity.

4. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department, a municipality, county, city, town, or village conducting investigations and ascertaining compliance with sections 290.600 through 290.642, establishing and implementing a system to receive, investigate, or resolve complaints, establishing additional means of enforcement, or conducting outreach and education, including the creation of notices and other written materials, concerning sections 290.600 through 290.642.

290.624. 1. Any employer who willfully violates or fails to comply with any of the provisions and requirements of sections 290.600 through 290.642 shall be guilty of a class C misdemeanor; provided, however, that an employer who willfully violates the notice and posting requirements of section 290.612 shall be guilty of an infraction.

2. For purposes of this section, each day of violation or failure to comply and each employee affected shall constitute a separate offense.

290.627. 1. Any individual who claims to have been aggrieved by a failure of an employer to comply with any portion of sections 290.600 through 290.642, including but not limited to the failure to provide earned paid sick time or to allow employees to use such time consistent with sections 290.600 through 290.642, or who claims to have suffered a retaliatory personnel action, shall have a right of action and may commence a civil action in the appropriate court of jurisdiction within three years of the accrual of the cause of action, to obtain appropriate relief with respect to such unlawful violation. Such action may be brought without first filing an administrative complaint.

2. In a civil action under this section, if the court finds a violation has occurred, the court may grant as relief, as it deems appropriate and to the extent permitted by law, any permanent or temporary injunction, the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of sections 290.600 through 290.642, an additional amount equal to twice any unpaid earned sick time as liquidated damages, costs, and reasonable attorney's fees as may be allowed by the court, and other legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, reinstatement to employment and back pay.

290.630. 1. Except as otherwise required by law, an employer may not require disclosure of details relating to an employee's or an employee's family member's health information, domestic violence, sexual assault, or stalking as a condition of providing earned paid sick time under sections 290.600 through 290.642.

2. Unless as otherwise required by law, any health or safety information possessed by an employer regarding an employee or employee's family member must:

(A) be maintained on a separate form and in a separate file from other personnel information;

(B) be treated as confidential medical records; and

(C) not be disclosed except to the affected employee or with the express written permission of the affected employee.

290.633. 1. Nothing in sections 290.600 through 290.642 shall be deemed to interfere, impede, or otherwise diminish the right of employees to bargain collectively through representatives of their own choosing in order to establish earned paid sick time or other conditions of work in excess of the applicable minimum standards under the provisions of sections 290.600 through 290.642.

2. Any waiver by an employee of rights under sections 290.600 through 290.642 shall be deemed contrary to public policy and shall be void.

290.636. 1. Nothing in sections 290.600 through 290.642 shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the one required herein.

2. Nothing in sections 290.600 through 290.642 shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous paid sick time to an employee than required herein. Nothing in sections 290.600 through 290.642 shall be construed as diminishing the rights of public employees regarding paid sick time or use of paid sick time as provided in the laws of Missouri and ordinances of political subdivisions pertaining to public employees.

290.639. 1. Sections 290.600 through 290.642 provide minimum requirements pertaining to earned paid sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of earned paid sick time or that extends other protections to employees.

2. Nothing in sections 290.600 through 290.642 shall be interpreted or applied to create a power or obligation contrary to any federal law, rule, or regulation.

290.642. Except as detailed in section 290.618, all of the provisions of sections 290.600 through 290.642 are severable, and if any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.600 through 290.642 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application, and to this end the provisions of sections 290.600 through 290.642 are declared severable.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-031)

Subject

Initiative petition from Lisa D'Souza regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received May 3, 2021)

Date

May 21, 2021

Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Missouri Lottery,** the **State Tax Commission,** the **Missouri Veterans Commission,** the **Missouri Ethics Commission,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City**

Board of Election Commissioners, the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Children's Trust Fund of Missouri,** the **Missouri Joint Municipal Electric Utility Commission,** the **State Auditor's office,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Missouri Gaming Commission,** the **Municipal League of Metro St. Louis, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Amy Blouin, President & CEO, Missouri Budget Project provided information to the State Auditor's office.

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated they defer to the Office of Administration for response to this initiative petition.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact. This proposal excludes state employees.

Officials from the **Department of Labor and Industrial Relations** indicated:

Space is required for 10 full time employees (FTE) X 200 square feet per FTE X $20.70 per square foot = $41,400. This FTE will be located in Cole County.

Small business will be required to comply with the law and grant employees one hour of sick leave for every thirty hours worked. The rate of pay for each hour taken in sick leave is determined by a formula that takes into account the individual employee's hourly rate (or its equivalent for salaried employees) plus a calculation of current fringe benefits. This mandate will apply to all employers in the state, regardless of size, who are not currently providing an equal or greater sick leave benefit. Employers with 15 or more employees will be required to allow the use of 56 hours of sick leave per year and those with under 15 employees will need to allow the use of 40 hours per year.

Based on the most recent data available through the Quarterly Census of Employment and Wages (QCEW), there were an average of 216,229 employers in Missouri for 2020, with 182,616 of those employing less than 15 staff (482,325 total employees), and 33,613 employ 15 or more staff (2,176,397 total employees). Assuming the average hourly wage of $24.29/hour for Missouri in 2020 and the more recent Bureau of Labor Statistic for the state that roughly 60% of employers do no provide paid leave to employees, the estimated costs to businesses as a result of this language would be:

- Up to $281,176,182 for employers with less than 15 employees at 40/hours per year.
- Up to $1,776,253,353 for employers with 15 or more employees at 56/hours per year.

This level of mandate of small businesses will be extremely costly for thousands of employers, especially considering that the allowable reasons to use sick leave are broad and include a variety of physical and mental illnesses as well as the ability to use such leave to prepare for designated legal proceedings. The ability to use such leave is allowed for "family members" which is defined broadly to extend to individuals who have no biological or legal relationship to the employee but rather stand in a relationship where the employee is "responsible for finding or arranging health or safety related care..." or has assumed an "in loco parentis" status.

Alleged failure of an employee to provide paid sick leave will subject the employer to both civil suits and criminal proceedings. Each day where an employer is found to be in violation of the law will constitute a separate offense (a C misdemeanor) along with its potentially associated fines and/or jail time.

This proposal would authorize the Department of Labor & Industrial Relations (DOLIR) to investigate allegations of non-compliance, to subpoena records, hold hearings, adjudicate such disputes and to issue fines in the amount of $500 for each day of a violation.

They estimate it would need additional FTE and ongoing costs to set up and administer the program, and a new computer system will have to be developed for this program.

Since the proposal is subject to voter approval, their estimate covers the range of costs from non-approval by voters ($0) or a decision to decline to undertake the statutorily permissible enforcement role ($0) to full implementation of the proposal.

Cost Estimate – DOLIR

They estimate the total cost to develop, administer, and maintain the program to be over $1.2 million per year (excluding benefits paid). In estimating the total costs of the program, they have used the following assumptions.

Program Operations – Sections 290.600-290.642

They estimate that three new or expanded sections will be required to administer the program: Call Center, increased staff for the Division of Labor Standards for investigative and adjudicatory functions, and an expanded administrative staff within their department to include additional attorneys in the Office of General Counsel to help conduct public hearings, administer legal process, advise on the levying of fines and to prepare cases for appeal under Chapter 536.

Call Center – Begins 1/1/23

They assume that a Call Center will be required to handle questions and concerns from claimants and employers. Based on the call volume for other programs, 3.00 Program Specialists (Range 5 - $41,929) will be required to assist callers. The section will also require 1.00 Administrative Support Assistant (Range 3 - $34,019) to provide administrative support and 1.00 Benefit Program Supervisor (Range 6 - $47,071) to manage the unit.

Section #	290.600-290.642 Program Operations - Call Center - Begins 1/1/23					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Benefit Program Specialist	5	3.00	$41,929	$62,894	$125,787	$127,045
Admin Support Asst	3	1.00	$34,019	$17,010	$34,019	$34,359
Benefit Program Supervisor	6	1.00	$47,071	$23,536	$47,071	$47,542
Total PS		**5.00**		**$103,439**	**$206,877**	**$208,946**
Fringe Benefits				**$63,152**	**$126,304**	**$126,991**
Equipment - One-Time Costs						
Standard Equipment per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	5.00	$200	$1,000		
Computer Equipment	480	5.00	$1,607	$8,035		
Office Equipment	580	5.00	$6,530	$32,650		
Total Equipment				**$41,685**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	5.00	$460	$2,300	$2,358	$2,417
Supplies	190	5.00	$372	$1,860	$1,907	$1,955
Housekeeping & Janitorial	420	5.00	$345	$1,725	$1,768	$1,812
Telecom Serv & Supp	340	5.00	$794	$3,970	$4,069	$4,171
Professional Services (Network)	400	5.00	$399	$1,995	$2,045	$2,096
Building Leases	680	5.00	$4,140	$20,700	$21,218	$21,748
Total Expenses				**$32,550**	**$33,365**	**$34,199**
Total				**$240,826**	**$366,546**	**$370,136**

Expense & Equipment (E&E)
They have utilized the standard per FTE costs when calculating operating expenses and equipment for this estimate. Additional mailing costs are detailed below.

Relief on Behalf of Affected Employees – Section 290.609.1 – Begins 1/1/23
The bill authorizes their department to bring enforcement actions against employers who do not abide by the law. This would require additional investigators, adjudicators, and attorneys.

The number of employees who would file complaints cannot be estimated at this time; however, for the sake of this estimate, they assume each case would require an average of 20 hours of attorney time and 20 hours of support staff time. For every 100 cases, 1.00 Attorney ($60,000) and 0.25 of a Paralegal ($40,000) would be required. If 100 cases are brought per year, this would require 2.00 Attorneys and 1.00 Paralegal. If there are more than 240 cases per year, and the staff are unable to absorb the additional workload, additional funding would be pursued via the appropriations process.

Standard E&E costs, along with mobile telephones and travel expenses for the Attorneys are also included in this estimate. The cost estimate assumes these cases would begin when the program becomes operational, January 1, 2023.

Section #	290.609.1 - Relief on Behalf of Affected Employees – Begins 1/1/23					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Attorney		2.00	$60,000	$60,000	$120,000	$121,200
Paralegal		1.00	$40,000	$20,000	$40,000	$40,400
Total PS		**3.00**		**$80,000**	**$160,000**	**$161,600**
Fringe Benefits				**$43,848**	**$87,696**	**$88,227**
Equipment - One-Time Costs						
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	3.00	$200	$600		
Computer Equipment	480	3.00	$1,607	$4,821		
Office Equipment	580	3.00	$6,530	$19,590		
Additional Equipment (Provide Explanation)						
Telecom-Mobile Device(s)	340	2.00	$400	$800		
Total Equipment				**$25,811**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	3.00	$460	$1,380	$1,415	$1,450
Supplies	190	3.00	$372	$1,116	$1,144	$1,173
Housekeeping & Janitorial	420	3.00	$345	$1,035	$1,061	$1,088
Telecom Serv & Supp	340	2.00	$794	$1,588	$1,628	$1,669
Professional Services (Network)	400	3.00	$399	$1,197	$1,227	$1,258
Building Leases	680	3.00	$4,140	$12,420	$12,731	$13,049
Additional Expenses (Provide Explanation)						
Travel, In-State	140	2.00	$773	$1,546	$1,585	$1,625
Telecom-Mobile Services	340	2.00	$540	$1,080	$1,107	$1,135
Total Expenses				**$21,362**	**$21,898**	**$22,447**

Outreach – Section 290.621.2

Section 290.621.2 provides for their department to develop and implement an outreach program to ensure that employees who may be eligible to receive benefits are aware of the program. The outreach program will also educate Missouri's approximately 166,282 employers. Outreach materials will be available to our partners at Missouri Job Centers, business associations, and economic development agencies and mailed to all Missouri-registered businesses quarterly.

Promotional materials, and a brochure that targets businesses while still containing information for employees might be created. They estimate the total number of brochures printed and mailed annually at 700,000.

Section #	290.621.2 - Outreach - Begins 7/1/22					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Graphic Arts Specialist III	6	0.003	$47,071	$136	$0	$0
Total PS		**0.003**		**$136**	**$0**	**$0**
Fringe Benefits				**$78**	**$0**	**$0**
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Supplies (Postage & Printing)	190	700,000	0.55	$385,000	$394,625	$404,491
Total Expenses				**$385,000**	**$394,625**	**$404,491**
Total				**$385,214**	**$394,625**	**$404,491**

Administrative Services

Since this legislation would, in effect, create a substantially expanded Division of Labor Standards within their department, it is anticipated their department will require 1.00 Deputy Division Director, and 1.00 Administrative Office Support Assistant to manage and coordinate operations of the division.

Section #	Administrative Services - begins 7/1/22					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Deputy Director		1.00	$70,000	$70,000	$70,700	$71,407
Admin Support Asst	3	1.00	$34,019	$34,019	$34,359	$34,703
Total PS		**2.00**		**$104,019**	**$105,059**	**$106,110**
Fringe Benefits				**$57,585**	**$57,930**	**$58,279**
Equipment - One-Time Costs						
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	2.00	$200	$400		
Computer Equipment	480	2.00	$1,607	$3,214		
Office Equipment	580	2.00	$6,530	$13,060		
Additional Equipment (Provide Explanation)						
Telecom-Mobile Device(s)	340	1.00	$400	$400		
Total Equipment				**$17,074**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	2.00	$460	$920	$943	$967
Supplies	190	2.00	$372	$744	$763	$782
Housekeeping & Janitorial	420	2.00	$345	$690	$707	$725
Telecom Serv & Supp	340	2.00	$794	$1,588	$1,628	$1,669
Professional Services (Network)	400	2.00	$399	$798	$818	$838
Building Leases	680	2.00	$4,140	$8,280	$8,487	$8,699
Additional Expenses (Provide Explanation)						
Travel, In-State	140	1.00	$773	$773	$792	$812
Telecom-Mobile Services	340	1.00	$540	$540	$554	$568
Total Expenses				**$14,333**	**$14,692**	**$15,060**

They further assume that additional administrative services staff will be required including legal counsel, financial management, mail services, facility management, procurement, training, and human resources. For the purposes of this estimate they project indirect costs at 5% of program operations costs (personal services and fringe benefits) beginning in fiscal year (FY) 2022. One full year of administrative costs, would be realized in FY 2022 $215,624, FY 2023 $214,874, and FY 2024 $216,957.

Standard Equipment per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Administrative 5% Indirect Costs				$22,613	$37,193	$37,508
Total Administrative Cost				**$215,624**	**$214,874**	**$216,957**

They estimate the total cost to develop, administer, and maintain the program to be over $1.2 million per year (excluding benefits paid).

	FY-2022	FY-2023	FY-2024
Personal Services	$287,594	$471,936	$476,656
Fringe Benefits	$164,663	$271,930	$273,497
Equipment and Expense	$560,428	$501,773	$513,705
Total	$1,012,684	$1,245,639	$1,263,858

Of these costs, $84,570 are one-time equipment costs in FY 2022.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's Office** indicated this proposal relating to levels of sick leave available to employees should not fiscally impact their office.

Officials from the **House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this initiative petition.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to levels of sick leave available to employees should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated no fiscal impact for their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated this petition appears to exempt local governments. However, their county already meets the requirements herein as they provide 3.69 hours of sick leave per pay period with a 1000 hour max. Therefore, there is no fiscal impact on their county. The ordinance and enforcement section for counties appears voluntary.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **St. Louis County** indicated they do not have any information to provide.

Officials from the **City of Kansas City** indicated this initiative petition will have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the City of St. Louis Personnel Department has determined that the city would be exempted from the amended statutes because the definition of "employer" in chapter 290.600 specifically excludes political subdivisions of the state.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri** indicated they do not anticipate a significant financial impact.

Officials from the **Missouri Lottery** indicated no fiscal impact to their agency.

Officials from the **State Tax Commission** indicated no fiscal impact on their agency.

Officials from the **Missouri Veterans Commission** indicated this initiative petition will have no fiscal impact upon their agency. The definition of the term "employer" in the proposed section 290.600(6) RSMo explicitly excludes the State and its agencies, so the provisions of the petition would not apply to the Commission should it become law.

Officials from the **Missouri Ethics Commission** indicated they defer to the Office of Administration

Officials from the **St. Louis County Board of Elections** indicated this would have no fiscal impact on their Board.

Officials from the **Board of Election Commissioners City of St. Louis** indicated this proposed measure would have no fiscal impact on their organization.

Officials from the **Children's Trust Fund** indicated no impact for the Office of Administration/Children's Trust Fund.

Officials from the **State Auditor's office** indicated since this proposed initiative petition does not apply to government entities, this would have no fiscal impact on their office.

Officials from the **Missouri Gaming Commission** indicated the proposal will have no fiscal impact on their agency.

Officials from **University of Central Missouri** indicated they have determined there is potential for future fiscal impact but too speculative to estimate impact.

Section 290.603 and beyond starts the portions that will have a fiscal impact. The component that every employee after 30 hours shall be granted paid sick leave is huge when you factor in student workers, temps, adjuncts, etc. Additionally, there is a provision that states that an employee rehired within 9 months of separation shall be entitled to all unused paid sick time that was on their account when they left. This is going to be a huge administrative burden and require, at minimum, the purchase of a time and attendance system that can be programmed to track all of the variations.

Section 290.627 has provisions for civil litigation, charges, and awards for damages for violation of the provisions of this act, which is where the real ambiguous component to fiscal implication and indeterminate concerns are based.

Amy Blouin, President & CEO, Missouri Budget Project provided the following information:

MBP
MISSOURI BUDGET PROJECT

Earned Sick Leave in Missouri: Costs and Savings for Employers

In addition to helping employees by allowing them to address their health needs without losing their jobs or ability to pay their bills, paid sick leave has many benefits for employers, including a healthier workforce, reduced turnover, and increased productivity. The benefits of paid sick leave have been highlighted by the current COVID-19 pandemic, illustrating the importance of workers being able to recover at home without lost wages and without risking spread of contagious disease in the workplace.

Several possible 2022 ballot measures have been filed that would require employers to provide earned sick leave in Missouri. Though the measures vary slightly, each would require employers to provide a minimum of 3-7 days of paid leave to employees, depending on hours worked and size of business. Public employees are exempt in all versions. If implemented, Missouri would join the thirteen states, plus the District of Columbia, (in addition to dozens of municipalities) who ensure employees can earn paid sick leave to care for themselves or family members.[i]

This analysis documents the number of people who may be impacted under Missouri's proposals and how access to paid sick leave reduces employer costs. Similar savings have been documented by research covering a variety of states that have implemented earned sick leave policies.[ii] The table below provides an overview of the estimated costs and savings for employers in Missouri. **We find that expanding earned sick leave to Missouri's nearly 538,000 workers without access would provide a net savings to employers of approximately $17.4 million annually.**

Estimated Costs and Savings to Employers from Earned Sick Leave in Missouri

		Cost/Savings Per Employee		
	Total Annual	**Annual**	**Weekly**	**Hourly**
Costs	$238.05M	$442.61	$8.51	$0.21
Cost for Sick Leave	$230.35M			
Cost for Parental Leave	$7.7M			
Savings	$255.45M	$474.95	$9.13	$0.23
Reduced Turnover	$147.59M			
Reduced Presenteeism	$82.27M			
Reduced Flu Contagion	$25.59M			
Net Savings	$17.4M	$32.34	$0.62	$0.02

Access to Paid Sick Leave in Missouri

Based on an analysis of data from the Missouri Department of Economic Development (MERIC), the U.S. Bureau of Labor Statistics, and the U.S. Census Bureau, we estimate that approximately one in four (or nearly 538,000) Missouri workers would be newly covered by earned sick leave provisions through the ballot measures. These workers are concentrated primarily in service, sales & office, and production, transportation, & material moving related occupations.

Estimated Number of Workers Newly Covered by Paid Sick Leave in Missouri by Occupation

Occupation	Total Employment	Share Exempt	Workers Covered by Initiatives	Share with No Sick Leave	Estimated Workers Newly Covered
Management, Business, Science, and Arts	870,750	27%	636,515	8%	**50,921**
Service	609,500	25%	458,619	41%	**188,034**
Sales and Office	674,870	16%	568,561	23%	**130,769**
Natural Resources, Construction, and Maintenance	224,740	23%	172,541	32%	**55,213**
Production, Transportation, and Material Moving	440,740	9%	403,199	28%	**112,896**
Total	**2,820,600**	**21%**	**2,239,435**	**24%**	**537,833**

Note: Estimated workers covered by paid leave initiatives calculated as the total number of employees by occupation[iii] less the share of that occupation estimated to be exempt (self-employed or local, state, and federal government workers).[iv] Workers newly covered calculated as the total number of workers covered less the share of private workforce that already has access to paid sick leave by occupation.[v]

Cost of Earned Sick Leave to Employers

Employers would be responsible for the wages and associated benefits (such as payroll taxes and insurance) of newly eligible workers who take earned sick leave. Based on average daily wages and benefits in 2019 (see Appendix for detailed calculations), we estimate that Missouri employers would spend approximately $235 million annually on wages & benefits for workers newly eligible for earned sick leave.

Estimated Annual Cost of Earned Sick Leave to Employers

	Wages	Benefits	Total
Cost for Sick Leave	$163,333,388	$67,013,220	**$230,346,608**
Cost for Parental Leave	$5,462,868	$2,241,332	**$7,704,200**
Total	**$168,796,256**	**$69,254,552**	**$238,050,808**

Note: Average cost of earned sick leave calculated as average daily cost of wages & benefits multiplied by the average number of sick days per year[vi] (2.1) taken by workers with access to paid sick leave (or in the case of parental leave an additional 4.9 days per year for a total of 7 days); annual cost per worker is then multiplied by the number of newly covered workers by occupation to determine the annual cost of compensation for workers taking earned sick leave.

Sick Leave. Employees with access to paid leave generally do not use the full amount of paid sick leave to which they are entitled annually. A typical worker with paid sick leave uses 2.1 days of sick leave a year; around 45% of employees with access to paid leave use no sick time at all in a given year.[vii] **Adjusting for average wage by occupation, the cost of wages & benefits for newly eligible employees at 2.1 days per year is $230.3 million dollars annually.**

Parental Leave. We also assume that women who give birth will use the maximum amount of annual earned sick time (or an additional 4.9 days to equal a total of 7 sick days). Each year, 72,127 Missouri women give birth.[viii] Adjusting for employment rate among women in Missouri (56%),[ix] the estimated share of women working who are exempt (21%), and the share already covered by paid sick leave (76%), we estimate that 7,709 Missouri women will use these additional sick days for maternity care annually. **The cost of wages & benefits for newly eligible women who give birth is $7.7 million annually.**

Savings from Earned Sick Leave to Employers

The cost of earned sick leave to employers is offset by significant cost savings derived from benefits such as reduced employee turnover, reduced presenteeism (employees working at reduced capacity while sick or injured), and reduced contagion in the workplace. **We estimate that Missouri employers would save at least $255.4 million annually due to the implementation of earned sick leave policies.**

Estimated Annual Savings from Earned Sick Leave to Employers

	Wages	Benefits	Total
Reduced Turnover	$104,650,035	$42,936,327	**$147,586,363**
Reduced Presenteeism	$58,333,353	$23,933,293	**$82,266,646**
Reduced Flu Contagion	$18,147,602	$7,445,687	**$25,593,288**
Total Savings	**$181,130,990**	**$74,315,307**	**$255,446,297**

Note: Reduced turnover calculated by assuming a reduction in job turnover of 2.5 percentage points for those with new access to paid sick leave[x] at a cost of 20.7% of annual wages.[xi] Reduced presenteeism calculated by assuming workers without access to paid sick leave will work an average of 1.5 days while sick or injured[xii] at 50% effectiveness. Cost of reduced flu contagion calculated based on method presented in Abay, Rosa, & Pana-Cryan Appendix 3 using average estimates.[xiii]

Reduced Turnover. Access to paid sick leave gives workers the ability to address their health needs and those of their families, without having to quit a job or risk being fired. Access to paid sick leave is associated with reduced job turnover, which in turn creates significant savings for businesses.[xiv] **We estimate that Missouri employers will save $147.6 million annually due to reduced turnover in the workplace.**

Reduced Presenteeism. Employers who do not offer paid sick leave have higher rates of "presenteeism" or lost productivity due to employees working while injured or sick.[xv] Offering paid sick leave reduces the likelihood of working at reduced capacity and allows workers to recover from illness or injury more quickly. **We estimate that Missouri employers will save $82.3 million annually due to reduced presenteeism in the workplace.**

Reduced Flu Contagion. Workers without paid sick leave are more likely to come to work sick, increasing the likelihood of spreading the illness to other workers.[xvi] Access to paid sick leave allows workers to stay home when ill, reducing absenteeism related to contagious disease such as influenza. **We estimate that Missouri employers will save $25.6 million annually due to reduced flu contagion in the workplace.**

Appendix

Average Daily Wages & Benefits Used for Cost/Savings Calculations

Occupation	Average Hourly Wage	Average Work Hours/Day	Daily Estimated Average		
			Wage	Benefits	Total Compensation
Management, business, science, and arts	$34.93	7.41	$258.82	$113.11	$371.93
Service	$13.58	7.48	$101.57	$30.99	$132.56
Sales and Office	$18.79	7.20	$135.31	$52.37	$187.68
Natural Resources, Construction, and Maintenance	$24.39	8.11	$197.89	$93.93	$291.83
Production, Transportation, and Material Moving	$18.16	8.23	$149.51	$73.43	$222.94

Note: Average daily wage estimated by occupation using the average hourly wage by occupation[xvii] multiplied by average daily work hours by occupation.[xviii] The annual cost of benefits is calculated using the average cost of benefits as a share of total compensation by occupation.[xix] Total compensation equals the total cost of wages and benefits to employer.

Notes

i. All Missouri Workers Must Have Paid Sick Days to Open the Economy." National Partnership for Women & Families, 2020, www.nationalpartnership.org/our-work/economic-justice/frontline-workers/missouri.html.

ii. See Lovell, V. (2005). Valuing good health: An estimate of costs and savings for the Healthy Families Act. Washington, DC: Institute for Women's Policy Research.; See McKee & Milli (2019). Valuing good health in Massachusetts: The Costs and Benefits of Earned Sick Days. Washington, DC: Institute for Women's Policy Research.

iii. Occupational Employment and Wage Estimates (OES) provided by the Missouri Department of Economic Development/MERIC in cooperation with the U.S. Department of Labor Bureau of Labor Statistics (BLS).

iv. U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates. Table C24060: Occupation By Class Of Worker For The Civilian Employed Population 16 Years And Over.

v. National Compensation Survey: Employee Benefits in the United States, March 2020. U. S. Bureau of Labor Statistics (BLS).

vi. Xia, J., Hayes, J., Gault, B., & Nguyen, H. (2016). Paid sick days access and usage rates vary by race/ethnicity, occupation, and earnings. Institute for Women's Policy Research. February, 17.

vii. Xia, J., Hayes, J., Gault, B., & Nguyen, H. (2016). Paid sick days access and usage rates vary by race/ethnicity, occupation, and earnings. Institute for Women's Policy Research. February, 17.

viii. Martin, J. A., Hamilton, B. E., JK, O. M., & Driscoll, A. K. (2021). Births: Final Data for 2019.

ix. U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates. Table DP03: Selected Economic Characteristics

x. Hill, H. D. (2013). Paid sick leave and job stability. Work and occupations, 40(2), 143-173.

xi. Boushey, H., & Glynn, S. J. (2012). There are significant business costs to replacing employees. Center for American Progress, 16, 1-9.

xii. DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016). Workers without paid sick leave less likely to take time off for illness or injury compared to those with paid sick leave. Health Affairs, 35(3), 520-527.

xiii. Abay Asfaw, D., Rosa, R., & Pana-Cryan, R. (2017). Potential economic benefits of paid sick leave in reducing absenteeism related to the spread of influenza-like illness. Journal of occupational and environmental medicine, 59(9), 822.

xiv. Hill, H. D. (2013). Paid sick leave and job stability. Work and occupations, 40(2), 143-173.

xv. DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016). Workers without paid sick leave less likely to take time off for illness or injury compared to those with paid sick leave. Health Affairs, 35(3), 520-527.

xvi. Abay Asfaw, D., Rosa, R., & Pana-Cryan, R. (2017). Potential economic benefits of paid sick leave in reducing absenteeism related to the spread of influenza-like illness. Journal of occupational and environmental medicine, 59(9), 822.

xvii. Occupational Employment and Wage Estimates (OES) provided by the Missouri Department of Economic Development/MERIC in cooperation with the U.S. Department of Labor Bureau of Labor Statistics (BLS)

xviii. Bureau of Labor Statistics (BLS) American Time Use Survey – 2019 results.

xix. U.S. Bureau of Labor Statistics Employer Costs for Employee Compensation – December 2020. Table 4: Employer Costs for Employee Compensation for private industry workers by occupational and industry group

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, St. Louis Community College,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Missouri Joint Municipal Electric Utility Commission,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Municipal League of Metro St. Louis, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Fiscal Note Summary

State governmental entities estimate no savings, one-time costs ranging from $0 to at least $84,000, and ongoing costs ranging from $0 to $1.2 million per year by 2024. Local governmental entities estimate no costs or savings.

RECEIVED
MAY 03 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 3, 2021

RECEIVED
MAR 03 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lisa D'Souza regarding a proposed statutory amendment to Chapter 290, version 4 (2022-030)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lisa D'Souza on May 3, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John (Jay) Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022 and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2021 MAY -3 AM 10:00

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of Payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 20____.

Notary Public (Seal)

_____

Signature of Notary

My commission expires

_____.

_____

Address of Notary (Street, City, State & Zip Code)

Be it enacted by the people of the State of Missouri:

Fifteen new sections to be known as sections 290.600, 290.603, 290.606, 290.609, 290.612, 290.615, 290.618, 290.621, 290.624, 290.627, 290.630, 290.633, 290.636, 290.639, and 290.642 are enacted to read as follows:

290.600. As used in sections 290.600 through 290.642:

(1) "Department", Department of Labor and Industrial Relations.

(2) "Director", Director of the Department of Labor and Industrial Relations.

(3) "Domestic violence", as such term is defined in section 455.010.

(4) "Earned paid sick time", time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in section 290.606, but in no case shall this hourly amount be less than that provided under section 290.502.

(5) "Employee", any individual employed in this state by an employer, but does not include:

(A) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to the organization are on a voluntary basis;

(B) Any individual standing in loco parentis to foster children in their care;

(C) Any individual employed for less than four months in any year in a resident or day camp for children or youth, or any individual employed by an educational conference center operated by an educational, charitable or not-for-profit organization;

(D) Any individual engaged in the activities of an educational organization where employment by the organization is in lieu of the requirement that the individual pay the cost of tuition, housing or other educational fees of the organization or where earnings of the individual employed by the organization are credited toward the payment of the cost of tuition, housing or other educational fees of the organization;

(E) Any individual employed on or about a private residence on an occasional basis for six hours or less on each occasion;

(F) Any individual employed on a casual basis to provide baby-sitting services;

(G) Any individual employed by an employer subject to the provisions of part A of subtitle IV of title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;

(H) Any individual employed on a casual or intermittent basis as a golf caddy, newsboy, or in a similar occupation;

(I) Any individual who is employed in any government position defined in 29 U.S.C. §§ 203(e)(2)(C)(i)-(ii);

(J) Any individual employed by a retail or service business whose annual gross volume sales made or business done is less than five hundred thousand dollars;

(K) Any individual who is an offender, as defined in section 217.010, who is incarcerated in any correctional facility operated by the department of corrections, including offenders who provide labor or services on the grounds of such correctional facility pursuant to section 217.550; or,

(L) Any individual described by the provisions of section 29 U.S.C. 213(a)(8).

(6) "Employer", any person acting directly or indirectly in the interest of an employer in relation to an employee; provided, however, that for the purposes of sections 290.600 through 290.642 "employer" does not include the United States Government, the state, or a political subdivision of the state, including a department, agency, officer, bureau, division, board, commission, or instrumentality of the state, or a city, county, town, village, school district, public higher education institution, or other political subdivision of the state.

(7) "Family member", any of the following individuals:

(A) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor;

(B) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or an individual who stood in loco parentis when the employee or employee's spouse or domestic partner was a minor child;

(C) An individual to whom the employee is legally married under the laws of any state, or a domestic partner who is registered as such under the laws of any state or political subdivision;

(D) A grandparent, grandchild, or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or

(E) A person for whom the employee is responsible for providing or arranging health or safety-related care, including but not limited to helping that individual obtain diagnostic, preventative, routine, or therapeutic health treatment or ensuring the person is safe following domestic violence, sexual assault, or stalking.

(8) "Health care professional," any individual licensed under federal or any state law to provide medical or emergency services, including but not limited to doctors, nurses, certified nurse midwives, mental health professionals, and emergency room personnel.

(9) "Person", any individual, partnership, association, corporation, business, business trust, legal representative, or any organized group of persons.

(10) "Retaliatory personnel action", denial of any right guaranteed under sections 290.600 through 290.642, or any threat, discharge, suspension, demotion, reduction of hours, or any other adverse action against an employee for the exercise of any right guaranteed herein. "Retaliatory personnel action" shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding, or hearing under sections 290.600 through 290.642.

(11) "Same hourly rate", means the following:

(a) For employees paid on the basis of a single hourly rate, the same hourly rate shall be the employee's regular hourly rate.

(b) For employees who are paid multiple hourly rates of pay from the same employer, the same hourly rate shall be either:

(i) the wages the employee would have been paid for the hours absent during use of earned paid sick time if the employee had worked; or,

(ii) the weighted average of all hourly rates of pay during the previous pay period.

Whatever method the employer uses, the employer must use a consistent method for each employee throughout a year.

(c) For employees who are paid a salary, the same hourly rate shall be determined by dividing the wages the employee earns in the previous pay period by the total number of hours worked during the previous pay period. For determining total number of hours worked during the previous pay period, employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1), the Fair Labor Standards Act, shall be assumed to work 40 hours in each work week unless their normal work week is less than 40 hours, in which case earned paid sick time shall accrue and the same hourly rate shall be calculated based on the employee's normal work week. Regardless of the basis used, the same hourly rate shall not be less than the effective minimum wage specified in section 290.502.

(d) For employees paid on a piece rate or a fee-for-service basis, the same hourly rate shall be a reasonable calculation of the wages or fees the employee would have received for the piece work, service, or part thereof, if the employee had worked. Regardless of the basis used, the same hourly rate shall not be less than the effective minimum wage specified in section 290.502.

(e) For employees who are paid on a commission basis (whether base wage plus commission or commission only), the same hourly rate shall be the greater of the base wage or the effective minimum wage specified in section 290.502.

(f) For employees who receive and retain compensation in the form of gratuities in addition to wages, the same hourly rate shall be the greater of the employee's regular hourly rate or 100% of the effective minimum wage specified in section 290.502 without deduction of any tips as a credit.

(12) "Sexual assault", as such term is defined in section 455.010.

(13) "Stalking", as such term is defined in section 455.010.

(14) "Year", a regular and consecutive twelve-month period as determined by the employer; except that for the purposes of section 290.615 and section 290.627, "year" shall mean a calendar year.

290.603. 1. Employees of an employer with fifteen or more employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to use more than fifty-six hours of earned paid sick time per year, unless the employer selects a higher limit.

2. Employees of an employer with fewer than fifteen employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to use more than forty hours of earned paid sick time per year, unless the employer selects a higher limit.

3. In determining the number of employees of an employer, all employees performing work in the state for an employer for compensation on a full-time, part-time, or temporary basis shall be counted. In situations in which the number of employees performing work in the state for an employer for compensation per week fluctuates above and below 15 employees per week over the course of a year, an employer is required to provide earned paid sick time pursuant to subsection (1) of this section if it maintained fifteen or more employees in the state on the payroll for some portion of a working day in each of twenty or more different calendar weeks, including any periods of leave, and whether or not the weeks were consecutive, in either the current or the preceding year (irrespective of whether the same individuals were in employment in each working day).

4. All employees shall accrue earned paid sick time as follows:

(A) Earned paid sick time as provided in this section shall begin to accrue at the commencement of employment or on the date this law goes into effect, whichever is later. An employee shall be entitled to use earned paid sick time as it is accrued. An employer may provide all earned paid sick time that an employee is expected to accrue in a year at the beginning of the year.

(B) Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work forty hours in each work week for purposes of earned paid sick time accrual unless their normal work week is less than forty hours, in which case earned paid sick time accrues based upon that normal work week.

(C) Earned paid sick time shall be carried over to the following year, but this law does not require an employer to permit an employee to use more than the applicable number of hours of earned paid sick time per year as set forth in subsection (1) and (2) of this section. Alternatively, in lieu of carryover of unused earned

paid sick time from one year to the next, an employer may pay an employee for unused earned paid sick time at the end of a year and provide the employee with an amount of paid sick time that meets or exceeds the requirements of sections 290.600 through 290.642 that is available for the employee's immediate use at the beginning of the subsequent year.

(D) If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity, or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within nine months of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.

(E) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

(F) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

5. Any employer with a paid leave policy, such as a paid time off policy, or a collective bargaining agreement that makes available an amount of paid leave sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as earned paid sick time under sections 290.600 through 290.642 is not required to provide additional paid sick time under this section.

6. Except as specifically provided in this section, nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued earned paid sick time that has not been used.

290.606. 1. Earned paid sick time shall be provided to an employee by an employer for:

(A) An employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; an employee's need for preventative medical care;

(B) Care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; care of a family member who needs preventative medical care;

(C) Closure of the employee's place of business by order of a public official due to a public health emergency, or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease; or

(D) Absence necessary due to domestic violence, sexual assault, or stalking, provided the leave is to allow the employee to obtain for the employee or the employee's family member:

(i) Medical attention needed to recover from physical or psychological injury or disability caused by domestic violence, sexual assault, or stalking;

(ii) Services from a victim services organization;

(iii) Psychological or other counseling;

(iv) Relocation or taking steps to secure an existing home due to the domestic violence, sexual assault, or stalking; or

(v) Legal services, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence, sexual assault, or stalking.

2. Earned paid sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means, or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.

3. When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer. Where such need is not foreseeable, an employer may require an employee to provide notice of the need for the use of earned paid sick time as soon as practicable.

4. An employer that requires notice of the need to use earned paid sick time where the need is not foreseeable shall provide a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.

5. An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

6. Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

7. For earned paid sick time of three or more consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used for a purpose covered by subsection (1) of this section.

(A) Documentation signed by a heath care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section.

(B) In cases of domestic violence, sexual assault, or stalking, if the employer requests, one of the following types of documentation selected by the employee shall be considered reasonable documentation: (i) a police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking, (ii) a written statement from an employee or agent of a victim service provider affirming that the employee or employee's family member is or was receiving services from a victim service provider; (iii) documentation signed by a health care professional from whom the employee or employee's family member sought assistance relating to domestic violence, sexual assault, or stalking or the effects thereof; (vi) a court document indicating that an employee or employee's family member is or was involved in a legal action related to domestic violence, sexual assault, or stalking; or (v) a written statement from the employee affirming that the employee or employee's family member is taking or took earned paid sick time for a qualifying purpose of subsection (1) of this section.

(C) An employer may not require that the documentation explain the nature of the illness, details of the underlying health needs, or the details of the domestic violence, sexual assault, or stalking, unless otherwise required by law.

290.609. 1. It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under sections 290.600 through 290.642.

2. An employer shall not take retaliatory personnel action or discriminate against an employee or former employee because the individual has exercised rights protected under sections 290.600 through 290.642. Such rights include, but are not limited to, the right to request or use earned paid sick time pursuant to sections 290.600 through 290.642; the right to file a complaint or inform any person about any employer's alleged violation of sections 290.600 through 290.642; the right to participate in any investigation, hearing, or proceeding or cooperate with or assist the Department in any investigations of alleged violations of sections 290.600 through 290.642; and the right to inform any person of his or her potential rights under sections 290.600 through 290.642.

3. It shall be unlawful for an employer's absence control policy to count earned paid sick time taken under sections 290.600 through 290.642 as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

4. Protections of this section shall apply to any individual who mistakenly but in good faith alleges violations of sections 290.600 through 290.642.

290.612. 1. Employers shall give employees a written notice about earned paid sick time within fourteen calendar days of the commencement of employment or within ninety days of the effective date of this law, whichever is later, which must include the following information: (1) employees accrue and are entitled to earned paid sick time at the rate one hour of earned paid sick time for every 30 hours of work, and may use earned paid sick time, subject to the terms under sections 290.600 through 290.642 of Missouri law, (2) it is prohibited for an employer to take retaliatory personnel action against employees who request or use earned paid sick time as allowed by law, (3) each employee has the right to bring a civil action if earned paid sick time as required by sections 290.600 through 290.642 is denied by the employer or the employee is subjected to retaliatory personnel action by the employer for exercising the employee's rights under sections 290.600 through 290.642; and, (4) the contact information for the Department. Notice shall be provided by the Employer to the employee on a single piece of paper, at least 8.5 x 11, in no less than 14-point font.

2. Employers shall display a poster that contains the information required in subsection (1) of this section in a conspicuous and accessible place in each establishment where such employees are employed, provided that such poster has been provided by the Department.

3. The Department may create and make available to employers, model notices and posters that contain the information required under subsection (1) of this section for employers' use in complying with subsections (1) and (2) of this section. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department creating or making available notices or posters.

290.615. 1. Employers shall retain records documenting hours worked by employees and earned paid sick time taken by employees, for a period of not less than three years, and shall allow the Department access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of sections 290.600 through 290.642.

2. To the extent permitted by law, the Director may inspect such records, and the records shall be open for inspection by the Director by appointment. Where the records required under this section are kept outside the state, the records shall be made available to the Director upon demand. Every such employer shall furnish to the Director on demand a sworn statement of time records and information upon forms prescribed or approved by the Director. All the records and information obtained by the Department are confidential and shall be disclosed only on order of a court of competent jurisdiction.

3. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department or Director accessing or inspecting records or creating forms relating to the inspection of records.

290.618. 1. The Department may, in accordance with chapter 536, promulgate rules for the implementation, enforcement, and administration of sections 290.600 through 290.642. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

2. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the promulgation or adoption of rules.

290.621. 1. The Department may investigate and ascertain compliance with sections 290.600 through 290.642, establish and implement a system to receive complaints regarding non-compliance with sections 290.600 through 290.642 and to investigate and attempt to resolve complaints between the complainant and the subject of the complaint, and establish additional means of enforcement, including requiring by subpoena the testimony of witnesses and production of books, records, and other evidence relative to any matter under investigation or hearing, issuing notices of violation, holding hearings on notices of violation, making determinations, recovering unpaid earned sick time, and imposing fines for willful violations of up to $500 per day of each day of a continuing violation. A final decision of the department is subject to review in accordance with the provisions of chapter 536.

2. The Department may develop and implement an outreach program to inform employees, parents, and persons who are under the care of a health care provider about the availability of earned paid sick time under sections 290.600 through 290.642. This program may include the distribution of notices and other written materials to child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers in Missouri.

3. A municipality, county, city, town, or village may adopt ordinances, rules, and regulations to investigate and ascertain compliance with sections 290.600 through 290.642, establish and implement a system to receive complaints regarding non-compliance with sections 290.600 through 290.642 and to investigate and attempt to resolve complaints between the complainant and the subject of the complaint, and establish additional means of enforcement, with respect to employers within, or employees performing work while physically present in, the geographic boundaries of the municipality, county, city, town, or village. Any such ordinance, rule, or regulation shall be consistent with this law and any Department rules or regulations and system for compliance and enforcement. The municipality, county, city, town, or village may exercise such powers as allowed by any applicable charter or ordinance, including requiring by subpoena the testimony of witnesses and production of books, records, and other evidence relative to any matter under investigation or hearing, issuing notices of violation, holding hearings on notices of violation, making determinations, recovering unpaid earned sick time, and imposing fines for willful violations of up to the maximum allowed for an ordinance violation. Before investigating or seeking to resolve any complaint between the complainant and the subject of the complaint, the municipality, county, city, town, or village shall give notice to the Department with a copy of the complaint and, within 14 days of such notice, the Department may intervene as of right and participate in the matter to ensure that the complaint is being investigated and resolved in the interest of effective enforcement of sections 290.600 through 290.642 or, alternatively, the Department may institute its own proceedings in which case the municipality, county, city, town, or village shall refrain from acting on the matter so long as the complaint is being investigated and resolved in the interest of effective enforcement of sections 290.600 through 290.642. If the Department does not, within 14 days, intervene or instigate its own proceedings, the municipality, county, city, town, or village may, without the Department, investigate and attempt to resolve the complaint and take other additional means as permitted to enforce sections 290.600 through 290.642 against the subject of the complaint. In no event shall an employer be subject to compliance proceedings arising out of a single set of facts after having already been subjected to a final compliance order by another government entity.

4. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department, a municipality, county, city, town, or village conducting investigations and ascertaining compliance with sections 290.600 through 290.642, establishing and implementing a system to receive, investigate, or resolve complaints, establishing additional means of enforcement, or conducting outreach and education, including the creation of notices and other written materials, concerning sections 290.600 through 290.642.

290.624. 1. Any employer who willfully violates or fails to comply with any of the provisions and requirements of sections 290.600 through 290.642 shall be guilty of a class C misdemeanor; provided, however, that an employer who willfully violates the notice and posting requirements of section 290.612 shall be guilty of an infraction.

2. For purposes of this section, each day of violation or failure to comply and each employee affected shall constitute a separate offense.

290.627. 1. Any individual who claims to have been aggrieved by a failure of an employer to comply with any portion of sections 290.600 through 290.642, including but not limited to the failure to provide earned paid sick time or to allow employees to use such time consistent with sections 290.600 through 290.642, or who claims to have suffered a retaliatory personnel action, shall have a right of action and may commence a civil action in the appropriate court of jurisdiction within three years of the accrual of the cause of action, to obtain appropriate relief with respect to such unlawful violation. Such action may be brought without first filing an administrative complaint.

2. In a civil action under this section, if the court finds a violation has occurred, the court may grant as relief, as it deems appropriate and to the extent permitted by law, any permanent or temporary injunction, the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of sections 290.600 through 290.642, an additional amount equal to twice any unpaid earned sick time as liquidated damages, costs, and reasonable attorney's fees as may be allowed by the court, and other legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, reinstatement to employment and back pay.

290.630. 1. Except as otherwise required by law, an employer may not require disclosure of details relating to an employee's or an employee's family member's health information, domestic violence, sexual assault, or stalking as a condition of providing earned paid sick time under sections 290.600 through 290.642.

2. Unless as otherwise required by law, any health or safety information possessed by an employer regarding an employee or employee's family member must:

(A) be maintained on a separate form and in a separate file from other personnel information;

(B) be treated as confidential medical records; and

(C) not be disclosed except to the affected employee or with the express written permission of the affected employee.

290.633. 1. Nothing in sections 290.600 through 290.642 shall be deemed to interfere, impede, or otherwise diminish the right of employees to bargain collectively through representatives of their own choosing in order to establish earned paid sick time or other conditions of work in excess of the applicable minimum standards under the provisions of sections 290.600 through 290.642.

2. All or any portion of the earned paid sick time requirements of sections 290.600 through 290.642 shall not apply to employees covered by a bona fide collective bargaining agreement to the extent that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

3. With the exception noted in subsection 2, any waiver by an employee of rights under sections 290.600 through 290.642 shall be deemed contrary to public policy and shall be void.

290.636. 1. Nothing in sections 290.600 through 290.642 shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the one required herein.

2. Nothing in sections 290.600 through 290.642 shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous paid sick time to an employee than required herein. Nothing in sections 290.600 through 290.642 shall be construed as diminishing the rights of public employees regarding paid sick time or use of paid sick time as provided in the laws of Missouri and ordinances of political subdivisions pertaining to public employees.

290.639. 1. Sections 290.600 through 290.642 provide minimum requirements pertaining to earned paid sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of earned paid sick time or that extends other protections to employees.

2. Nothing in sections 290.600 through 290.642 shall be interpreted or applied to create a power or obligation contrary to any federal law, rule, or regulation.

290.642. Except as detailed in section 290.618, all of the provisions of sections 290.600 through 290.642 are severable, and if any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.600 through 290.642 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application, and to this end the provisions of sections 290.600 through 290.642 are declared severable.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-030)

Subject

Initiative petition from Lisa D'Souza regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received May 3, 2021)

Date

May 21, 2021

Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Missouri Lottery,** the **State Tax Commission,** the **Missouri Veterans Commission,** the **Missouri Ethics Commission,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City**

Board of Election Commissioners, the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Children's Trust Fund of Missouri,** the **Missouri Joint Municipal Electric Utility Commission,** the **State Auditor's office,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Missouri Gaming Commission,** the **Municipal League of Metro St. Louis, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Amy Blouin, President & CEO, Missouri Budget Project provided information to the State Auditor's office.

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated they defer to the Office of Administration for response to this initiative petition.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact. This proposal excludes state employees.

Officials from the **Department of Labor and Industrial Relations** indicated:

Space is required for 10 full time employees (FTE) X 200 square feet per FTE X $20.70 per square foot = $41,400. This FTE will be located in Cole County.

Small business will be required to comply with the law and grant employees one hour of sick leave for every thirty hours worked. The rate of pay for each hour taken in sick leave is determined by a formula that takes into account the individual employee's hourly rate (or its equivalent for salaried employees) plus a calculation of current fringe benefits. This mandate will apply to all employers in the state, regardless of size, who are not currently providing an equal or greater sick leave benefit. Employers with 15 or more employees will be required to allow the use of 56 hours of sick leave per year and those with under 15 employees will need to allow the use of 40 hours per year.

Based on the most recent data available through the Quarterly Census of Employment and Wages (QCEW), there were an average of 216,229 employers in Missouri for 2020, with 182,616 of those employing less than 15 staff (482,325 total employees), and 33,613 employ 15 or more staff (2,176,397 total employees). Assuming the average hourly wage of $24.29/hour for Missouri in 2020 and the more recent Bureau of Labor Statistic for the state that roughly 60% of employers do no provide paid leave to employees, the estimated costs to businesses as a result of this language would be:

- Up to $281,176,182 for employers with less than 15 employees at 40/hours per year.
- Up to $1,776,253,353 for employers with 15 or more employees at 56/hours per year.

This level of mandate of small businesses will be extremely costly for thousands of employers, especially considering that the allowable reasons to use sick leave are broad and include a variety of physical and mental illnesses as well as the ability to use such leave to prepare for designated legal proceedings. The ability to use such leave is allowed for "family members" which is defined broadly to extend to individuals who have no biological or legal relationship to the employee but rather stand in a relationship where the employee is "responsible for finding or arranging health or safety related care..." or has assumed an "in loco parentis" status.

Alleged failure of an employee to provide paid sick leave will subject the employer to both civil suits and criminal proceedings. Each day where an employer is found to be in violation of the law will constitute a separate offense (a C misdemeanor) along with its potentially associated fines and/or jail time.

This proposal would authorize the Department of Labor & Industrial Relations (DOLIR) to investigate allegations of non-compliance, to subpoena records, hold hearings, adjudicate such disputes and to issue fines in the amount of $500 for each day of a violation.

They estimate it would need additional FTE and ongoing costs to set up and administer the program, and a new computer system will have to be developed for this program.

Since the proposal is subject to voter approval, their estimate covers the range of costs from non-approval by voters ($0) or a decision to decline to undertake the statutorily permissible enforcement role ($0) to full implementation of the proposal.

Cost Estimate – DOLIR

They estimate the total cost to develop, administer, and maintain the program to be over $1.2 million per year (excluding benefits paid). In estimating the total costs of the program, they have used the following assumptions.

Program Operations – Sections 290.600-290.642

They estimate that three new or expanded sections will be required to administer the program: Call Center, increased staff for the Division of Labor Standards for investigative and adjudicatory functions, and an expanded administrative staff within their department to include additional attorneys in the Office of General Counsel to help conduct public hearings, administer legal process, advise on the levying of fines and to prepare cases for appeal under Chapter 536.

Call Center – Begins 1/1/23

They assume that a Call Center will be required to handle questions and concerns from claimants and employers. Based on the call volume for other programs, 3.00 Program Specialists (Range 5 - $41,929) will be required to assist callers. The section will also require 1.00 Administrative Support Assistant (Range 3 - $34,019) to provide administrative support and 1.00 Benefit Program Supervisor (Range 6 - $47,071) to manage the unit.

Section #	290.600-290.642 Program Operations - Call Center - Begins 1/1/23					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Benefit Program Specialist	5	3.00	$41,929	$62,894	$125,787	$127,045
Admin Support Asst	3	1.00	$34,019	$17,010	$34,019	$34,359
Benefit Program Supervisor	6	1.00	$47,071	$23,536	$47,071	$47,542
Total PS		**5.00**		**$103,439**	**$206,877**	**$208,946**
Fringe Benefits				**$63,152**	**$126,304**	**$126,991**
Equipment - One-Time Costs						
Standard Equipment per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	5.00	$200	$1,000		
Computer Equipment	480	5.00	$1,607	$8,035		
Office Equipment	580	5.00	$6,530	$32,650		
Total Equipment				**$41,685**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	5.00	$460	$2,300	$2,358	$2,417
Supplies	190	5.00	$372	$1,860	$1,907	$1,955
Housekeeping & Janitorial	420	5.00	$345	$1,725	$1,768	$1,812
Telecom Serv & Supp	340	5.00	$794	$3,970	$4,069	$4,171
Professional Services (Network)	400	5.00	$399	$1,995	$2,045	$2,096
Building Leases	680	5.00	$4,140	$20,700	$21,218	$21,748
Total Expenses				**$32,550**	**$33,365**	**$34,199**
Total				**$240,826**	**$366,546**	**$370,136**

Expense & Equipment (E&E)
They have utilized the standard per FTE costs when calculating operating expenses and equipment for this estimate. Additional mailing costs are detailed below.

Relief on Behalf of Affected Employees – Section 290.609.1 – Begins 1/1/23
The bill authorizes their department to bring enforcement actions against employers who do not abide by the law. This would require additional investigators, adjudicators, and attorneys.

The number of employees who would file complaints cannot be estimated at this time; however, for the sake of this estimate, they assume each case would require an average of 20 hours of attorney time and 20 hours of support staff time. For every 100 cases, 1.00 Attorney ($60,000) and 0.25 of a Paralegal ($40,000) would be required. If 100 cases are brought per year, this would require 2.00 Attorneys and 1.00 Paralegal. If there are more than 240 cases per year, and the staff are unable to absorb the additional workload, additional funding would be pursued via the appropriations process.

Standard E&E costs, along with mobile telephones and travel expenses for the Attorneys are also included in this estimate. The cost estimate assumes these cases would begin when the program becomes operational, January 1, 2023.

Section #	290.609.1 - Relief on Behalf of Affected Employees – Begins 1/1/23					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Attorney		2.00	$60,000	$60,000	$120,000	$121,200
Paralegal		1.00	$40,000	$20,000	$40,000	$40,400
Total PS		**3.00**		**$80,000**	**$160,000**	**$161,600**
Fringe Benefits				**$43,848**	**$87,696**	**$88,227**
Equipment - One-Time Costs						
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	3.00	$200	$600		
Computer Equipment	480	3.00	$1,607	$4,821		
Office Equipment	580	3.00	$6,530	$19,590		
Additional Equipment (Provide Explanation)						
Telecom-Mobile Device(s)	340	2.00	$400	$800		
Total Equipment				**$25,811**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	3.00	$460	$1,380	$1,415	$1,450
Supplies	190	3.00	$372	$1,116	$1,144	$1,173
Housekeeping & Janitorial	420	3.00	$345	$1,035	$1,061	$1,088
Telecom Serv & Supp	340	2.00	$794	$1,588	$1,628	$1,669
Professional Services (Network)	400	3.00	$399	$1,197	$1,227	$1,258
Building Leases	680	3.00	$4,140	$12,420	$12,731	$13,049
Additional Expenses (Provide Explanation)						
Travel, In-State	140	2.00	$773	$1,546	$1,585	$1,625
Telecom-Mobile Services	340	2.00	$540	$1,080	$1,107	$1,135
Total Expenses				**$21,362**	**$21,898**	**$22,447**

Outreach – Section 290.621.2

Section 290.621.2 provides for their department to develop and implement an outreach program to ensure that employees who may be eligible to receive benefits are aware of the program. The outreach program will also educate Missouri's approximately 166,282 employers. Outreach materials will be available to our partners at Missouri Job Centers, business associations, and economic development agencies and mailed to all Missouri-registered businesses quarterly.

Promotional materials, and a brochure that targets businesses while still containing information for employees might be created. They estimate the total number of brochures printed and mailed annually at 700,000.

Section #	290.621.2 - Outreach - Begins 7/1/22					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Graphic Arts Specialist III	6	0.003	$47,071	$136	$0	$0
Total PS		**0.003**		**$136**	**$0**	**$0**
Fringe Benefits				**$78**	**$0**	**$0**
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Supplies (Postage & Printing)	190	700,000	0.55	$385,000	$394,625	$404,491
Total Expenses				**$385,000**	**$394,625**	**$404,491**
Total				**$385,214**	**$394,625**	**$404,491**

Administrative Services

Since this legislation would, in effect, create a substantially expanded Division of Labor Standards within their department, it is anticipated their department will require 1.00 Deputy Division Director, and 1.00 Administrative Office Support Assistant to manage and coordinate operations of the division.

Section #	Administrative Services - begins 7/1/22					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Deputy Director		1.00	$70,000	$70,000	$70,700	$71,407
Admin Support Asst	3	1.00	$34,019	$34,019	$34,359	$34,703
Total PS		**2.00**		**$104,019**	**$105,059**	**$106,110**
Fringe Benefits				**$57,585**	**$57,930**	**$58,279**
Equipment - One-Time Costs						
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	2.00	$200	$400		
Computer Equipment	480	2.00	$1,607	$3,214		
Office Equipment	580	2.00	$6,530	$13,060		
Additional Equipment (Provide Explanation)						
Telecom-Mobile Device(s)	340	1.00	$400	$400		
Total Equipment				**$17,074**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	2.00	$460	$920	$943	$967
Supplies	190	2.00	$372	$744	$763	$782
Housekeeping & Janitorial	420	2.00	$345	$690	$707	$725
Telecom Serv & Supp	340	2.00	$794	$1,588	$1,628	$1,669
Professional Services (Network)	400	2.00	$399	$798	$818	$838
Building Leases	680	2.00	$4,140	$8,280	$8,487	$8,699
Additional Expenses (Provide Explanation)						
Travel, In-State	140	1.00	$773	$773	$792	$812
Telecom-Mobile Services	340	1.00	$540	$540	$554	$568
Total Expenses				**$14,333**	**$14,692**	**$15,060**

They further assume that additional administrative services staff will be required including legal counsel, financial management, mail services, facility management, procurement, training, and human resources. For the purposes of this estimate they project indirect costs at 5% of program operations costs (personal services and fringe benefits) beginning in fiscal year (FY) 2022. One full year of administrative costs, would be realized in FY 2022 $215,624, FY 2023 $214,874, and FY 2024 $216,957.

Standard Equipment per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Administrative 5% Indirect Costs				$22,613	$37,193	$37,508
Total Administrative Cost				**$215,624**	**$214,874**	**$216,957**

They estimate the total cost to develop, administer, and maintain the program to be over $1.2 million per year (excluding benefits paid).

	FY-2022	FY-2023	FY-2024
Personal Services	$287,594	$471,936	$476,656
Fringe Benefits	$164,663	$271,930	$273,497
Equipment and Expense	$560,428	$501,773	$513,705
Total	$1,012,684	$1,245,639	$1,263,858

Of these costs, $84,570 are one-time equipment costs in FY 2022.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's Office** indicated this proposal relating to levels of sick leave available to employees should not fiscally impact their office.

Officials from the **House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this initiative petition.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to levels of sick leave available to employees should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated no fiscal impact for their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated this petition appears to exempt local governments. However, their county already meets the requirements herein as they provide 3.69 hours of sick leave per pay period with a 1000 hour max. Therefore, there is no fiscal impact on their county.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **St. Louis County** indicated they do not have any information to provide.

Officials from the **City of Kansas City** indicated this initiative petition will have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the City of St. Louis Personnel Department has determined that the city would be exempted from the amended statutes because the definition of "employer" in chapter 290.600 specifically excludes political subdivisions of the state.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri** indicated they do not anticipate a significant financial impact.

Officials from the **Missouri Lottery** indicated no fiscal impact to their agency.

Officials from the **State Tax Commission** indicated no fiscal impact on their agency.

Officials from the **Missouri Veterans Commission** indicated this initiative petition will have no fiscal impact upon their agency. The definition of the term "employer" in the proposed section 290.600(6) RSMo explicitly excludes the State and its agencies, so the provisions of the petition would not apply to the Commission should it become law.

Officials from the **Missouri Ethics Commission** indicated they defer to the Office of Administration

Officials from the **St. Louis County Board of Elections** indicated this would have no fiscal impact on their Board.

Officials from the **Board of Election Commissioners City of St. Louis** indicated this proposed measure would have no fiscal impact on their organization.

Officials from the **Children's Trust Fund** indicated no impact for the Office of Administration/Children's Trust Fund.

Officials from the **State Auditor's office** indicated since this proposed initiative petition does not apply to government entities, this would have no fiscal impact on their office.

Officials from the **Missouri Gaming Commission** indicated the proposal will have no fiscal impact on their agency.

Officials from **University of Central Missouri** indicated they have determined there is potential for future fiscal impact but too speculative to estimate impact.

Section 290.603 and beyond starts the portions that will have a fiscal impact. The component that every employee after 30 hours shall be granted paid sick leave is huge when you factor in student workers, temps, adjuncts, etc. Additionally, there is a provision that states that an employee rehired within 9 months of separation shall be entitled to all unused paid sick time that was on their account when they left. This is going to be a huge administrative burden and require, at minimum, the purchase of a time and attendance system that can be programmed to track all of the variations.

Section 290.627 has provisions for civil litigation, charges, and awards for damages for violation of the provisions of this act, which is where the real ambiguous component to fiscal implication and indeterminate concerns are based.

Amy Blouin, President & CEO, Missouri Budget Project provided the following information:

MBP
MISSOURI BUDGET PROJECT

Earned Sick Leave in Missouri: Costs and Savings for Employers

In addition to helping employees by allowing them to address their health needs without losing their jobs or ability to pay their bills, paid sick leave has many benefits for employers, including a healthier workforce, reduced turnover, and increased productivity. The benefits of paid sick leave have been highlighted by the current COVID-19 pandemic, illustrating the importance of workers being able to recover at home without lost wages and without risking spread of contagious disease in the workplace.

Several possible 2022 ballot measures have been filed that would require employers to provide earned sick leave in Missouri. Though the measures vary slightly, each would require employers to provide a minimum of 3-7 days of paid leave to employees, depending on hours worked and size of business. Public employees are exempt in all versions. If implemented, Missouri would join the thirteen states, plus the District of Columbia, (in addition to dozens of municipalities) who ensure employees can earn paid sick leave to care for themselves or family members.[i]

This analysis documents the number of people who may be impacted under Missouri's proposals and how access to paid sick leave reduces employer costs. Similar savings have been documented by research covering a variety of states that have implemented earned sick leave policies.[ii] The table below provides an overview of the estimated costs and savings for employers in Missouri. **We find that expanding earned sick leave to Missouri's nearly 538,000 workers without access would provide a net savings to employers of approximately $17.4 million annually.**

Estimated Costs and Savings to Employers from Earned Sick Leave in Missouri

		Cost/Savings Per Employee		
	Total Annual	**Annual**	**Weekly**	**Hourly**
Costs	$238.05M	$442.61	$8.51	$0.21
Cost for Sick Leave	$230.35M			
Cost for Parental Leave	$7.7M			
Savings	$255.45M	$474.95	$9.13	$0.23
Reduced Turnover	$147.59M			
Reduced Presenteeism	$82.27M			
Reduced Flu Contagion	$25.59M			
Net Savings	$17.4M	$32.34	$0.62	$0.02

Access to Paid Sick Leave in Missouri

Based on an analysis of data from the Missouri Department of Economic Development (MERIC), the U.S. Bureau of Labor Statistics, and the U.S. Census Bureau, we estimate that approximately one in four (or nearly 538,000) Missouri workers would be newly covered by earned sick leave provisions through the ballot measures. These workers are concentrated primarily in service, sales & office, and production, transportation, & material moving related occupations.

Estimated Number of Workers Newly Covered by Paid Sick Leave in Missouri by Occupation

Occupation	Total Employment	Share Exempt	Workers Covered by Initiatives	Share with No Sick Leave	Estimated Workers Newly Covered
Management, Business, Science, and Arts	870,750	27%	636,515	8%	**50,921**
Service	609,500	25%	458,619	41%	**188,034**
Sales and Office	674,870	16%	568,561	23%	**130,769**
Natural Resources, Construction, and Maintenance	224,740	23%	172,541	32%	**55,213**
Production, Transportation, and Material Moving	440,740	9%	403,199	28%	**112,896**
Total	**2,820,600**	**21%**	**2,239,435**	**24%**	**537,833**

Note: Estimated workers covered by paid leave initiatives calculated as the total number of employees by occupation[iii] less the share of that occupation estimated to be exempt (self-employed or local, state, and federal government workers).[iv] Workers newly covered calculated as the total number of workers covered less the share of private workforce that already has access to paid sick leave by occupation.[v]

Cost of Earned Sick Leave to Employers

Employers would be responsible for the wages and associated benefits (such as payroll taxes and insurance) of newly eligible workers who take earned sick leave. Based on average daily wages and benefits in 2019 (see Appendix for detailed calculations), we estimate that Missouri employers would spend approximately $235 million annually on wages & benefits for workers newly eligible for earned sick leave.

Estimated Annual Cost of Earned Sick Leave to Employers

	Wages	Benefits	Total
Cost for Sick Leave	$163,333,388	$67,013,220	**$230,346,608**
Cost for Parental Leave	$5,462,868	$2,241,332	**$7,704,200**
Total	**$168,796,256**	**$69,254,552**	**$238,050,808**

Note: Average cost of earned sick leave calculated as average daily cost of wages & benefits multiplied by the average number of sick days per year[vi] (2.1) taken by workers with access to paid sick leave (or in the case of parental leave an additional 4.9 days per year for a total of 7 days); annual cost per worker is then multiplied by the number of newly covered workers by occupation to determine the annual cost of compensation for workers taking earned sick leave.

Sick Leave. Employees with access to paid leave generally do not use the full amount of paid sick leave to which they are entitled annually. A typical worker with paid sick leave uses 2.1 days of sick leave a year; around 45% of employees with access to paid leave use no sick time at all in a given year.[vii] **Adjusting for average wage by occupation, the cost of wages & benefits for newly eligible employees at 2.1 days per year is $230.3 million dollars annually.**

Parental Leave. We also assume that women who give birth will use the maximum amount of annual earned sick time (or an additional 4.9 days to equal a total of 7 sick days). Each year, 72,127 Missouri women give birth.[viii] Adjusting for employment rate among women in Missouri (56%),[ix] the estimated share of women working who are exempt (21%), and the share already covered by paid sick leave (76%), we estimate that 7,709 Missouri women will use these additional sick days for maternity care annually. **The cost of wages & benefits for newly eligible women who give birth is $7.7 million annually.**

Savings from Earned Sick Leave to Employers

The cost of earned sick leave to employers is offset by significant cost savings derived from benefits such as reduced employee turnover, reduced presenteeism (employees working at reduced capacity while sick or injured), and reduced contagion in the workplace. **We estimate that Missouri employers would save at least $255.4 million annually due to the implementation of earned sick leave policies.**

Estimated Annual Savings from Earned Sick Leave to Employers

	Wages	Benefits	Total
Reduced Turnover	$104,650,035	$42,936,327	**$147,586,363**
Reduced Presenteeism	$58,333,353	$23,933,293	**$82,266,646**
Reduced Flu Contagion	$18,147,602	$7,445,687	**$25,593,288**
Total Savings	**$181,130,990**	**$74,315,307**	**$255,446,297**

Note: Reduced turnover calculated by assuming a reduction in job turnover of 2.5 percentage points for those with new access to paid sick leave[x] at a cost of 20.7% of annual wages.[xi] Reduced presenteeism calculated by assuming workers without access to paid sick leave will work an average of 1.5 days while sick or injured[xii] at 50% effectiveness. Cost of reduced flu contagion calculated based on method presented in Abay, Rosa, & Pana-Cryan Appendix 3 using average estimates.[xiii]

Reduced Turnover. Access to paid sick leave gives workers the ability to address their health needs and those of their families, without having to quit a job or risk being fired. Access to paid sick leave is associated with reduced job turnover, which in turn creates significant savings for businesses.[xiv] **We estimate that Missouri employers will save $147.6 million annually due to reduced turnover in the workplace.**

Reduced Presenteeism. Employers who do not offer paid sick leave have higher rates of "presenteeism" or lost productivity due to employees working while injured or sick.[xv] Offering paid sick leave reduces the likelihood of working at reduced capacity and allows workers to recover from illness or injury more quickly. **We estimate that Missouri employers will save $82.3 million annually due to reduced presenteeism in the workplace.**

Reduced Flu Contagion. Workers without paid sick leave are more likely to come to work sick, increasing the likelihood of spreading the illness to other workers.[xvi] Access to paid sick leave allows workers to stay home when ill, reducing absenteeism related to contagious disease such as influenza. **We estimate that Missouri employers will save $25.6 million annually due to reduced flu contagion in the workplace.**

Appendix

Average Daily Wages & Benefits Used for Cost/Savings Calculations

Occupation	Average Hourly Wage	Average Work Hours/Day	Daily Estimated Average		
			Wage	Benefits	Total Compensation
Management, business, science, and arts	$34.93	7.41	$258.82	$113.11	$371.93
Service	$13.58	7.48	$101.57	$30.99	$132.56
Sales and Office	$18.79	7.20	$135.31	$52.37	$187.68
Natural Resources, Construction, and Maintenance	$24.39	8.11	$197.89	$93.93	$291.83
Production, Transportation, and Material Moving	$18.16	8.23	$149.51	$73.43	$222.94

Note: Average daily wage estimated by occupation using the average hourly wage by occupation[xvii] multiplied by average daily work hours by occupation.[xviii] The annual cost of benefits is calculated using the average cost of benefits as a share of total compensation by occupation.[xix] Total compensation equals the total cost of wages and benefits to employer.

Notes

i. All Missouri Workers Must Have Paid Sick Days to Open the Economy." National Partnership for Women & Families, 2020, www.nationalpartnership.org/our-work/economic-justice/frontline-workers/missouri.html.

ii. See Lovell, V. (2005). Valuing good health: An estimate of costs and savings for the Healthy Families Act. Washington, DC: Institute for Women's Policy Research.; See McKee & Milli (2019). Valuing good health in Massachusetts: The Costs and Benefits of Earned Sick Days. Washington, DC: Institute for Women's Policy Research.

iii. Occupational Employment and Wage Estimates (OES) provided by the Missouri Department of Economic Development/MERIC in cooperation with the U.S. Department of Labor Bureau of Labor Statistics (BLS).

iv. U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates. Table C24060: Occupation By Class Of Worker For The Civilian Employed Population 16 Years And Over.

v. National Compensation Survey: Employee Benefits in the United States, March 2020. U. S. Bureau of Labor Statistics (BLS).

vi. Xia, J., Hayes, J., Gault, B., & Nguyen, H. (2016). Paid sick days access and usage rates vary by race/ethnicity, occupation, and earnings. Institute for Women's Policy Research. February, 17.

vii. Xia, J., Hayes, J., Gault, B., & Nguyen, H. (2016). Paid sick days access and usage rates vary by race/ethnicity, occupation, and earnings. Institute for Women's Policy Research. February, 17.

viii. Martin, J. A., Hamilton, B. E., JK, O. M., & Driscoll, A. K. (2021). Births: Final Data for 2019.

ix. U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates. Table DP03: Selected Economic Characteristics

x. Hill, H. D. (2013). Paid sick leave and job stability. Work and occupations, 40(2), 143-173.

xi. Boushey, H., & Glynn, S. J. (2012). There are significant business costs to replacing employees. Center for American Progress, 16, 1-9.

xii. DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016). Workers without paid sick leave less likely to take time off for illness or injury compared to those with paid sick leave. Health Affairs, 35(3), 520-527.

xiii. Abay Asfaw, D., Rosa, R., & Pana-Cryan, R. (2017). Potential economic benefits of paid sick leave in reducing absenteeism related to the spread of influenza-like illness. Journal of occupational and environmental medicine, 59(9), 822.

xiv. Hill, H. D. (2013). Paid sick leave and job stability. Work and occupations, 40(2), 143-173.

xv. DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016). Workers without paid sick leave less likely to take time off for illness or injury compared to those with paid sick leave. Health Affairs, 35(3), 520-527.

xvi. Abay Asfaw, D., Rosa, R., & Pana-Cryan, R. (2017). Potential economic benefits of paid sick leave in reducing absenteeism related to the spread of influenza-like illness. Journal of occupational and environmental medicine, 59(9), 822.

xvii. Occupational Employment and Wage Estimates (OES) provided by the Missouri Department of Economic Development/MERIC in cooperation with the U.S. Department of Labor Bureau of Labor Statistics (BLS)

xviii. Bureau of Labor Statistics (BLS) American Time Use Survey – 2019 results.

xix. U.S. Bureau of Labor Statistics Employer Costs for Employee Compensation – December 2020. Table 4: Employer Costs for Employee Compensation for private industry workers by occupational and industry group

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, St. Louis Community College,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Missouri Joint Municipal Electric Utility Commission,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Municipal League of Metro St. Louis, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Fiscal Note Summary

State governmental entities estimate no savings, one-time costs ranging from $0 to at least $84,000, and ongoing costs ranging from $0 to $1.2 million per year by 2024. Local governmental entities estimate no costs or savings.

RECEIVED
MAY 03 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 3, 2021

RECEIVED
MAR 03 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lisa D'Souza regarding a proposed statutory amendment to Chapter 290, version 3 (2022-029)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lisa D'Souza on May 3, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John (Jay) Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022 and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

RECEIVED
2021 MAY -3 AM 9:59

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of Payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 20____.

Notary Public (Seal)

_____

Signature of Notary

My commission expires

_____.

_____

Address of Notary (Street, City, State & Zip Code)

Be it enacted by the people of the State of Missouri:

Fifteen new sections to be known as sections 290.600, 290.603, 290.606, 290.609, 290.612, 290.615, 290.618, 290.621, 290.624, 290.627, 290.630, 290.633, 290.636, 290.639, and 290.642 are enacted to read as follows:

290.600. As used in sections 290.600 through 290.642:

(1) "Construction", includes construction, reconstruction, improvement, enlargement, alteration, painting and decorating, or major repair.

(2) "Construction industry", includes any employer whose employees conduct or perform construction as a principal component of the employer's business or enterprise.

(3) "Department", Department of Labor and Industrial Relations.

(4) "Director", Director of the Department of Labor and Industrial Relations.

(5) "Domestic violence", as such term is defined in section 455.010.

(6) "Earned paid sick time", time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in section 290.606, but in no case shall this hourly amount be less than that provided under section 290.502.

(7) "Employee", any individual employed in this state by an employer, but does not include:

(A) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to the organization are on a voluntary basis;

(B) Any individual standing in loco parentis to foster children in their care;

(C) Any individual employed for less than four months in any year in a resident or day camp for children or youth, or any individual employed by an educational conference center operated by an educational, charitable or not-for-profit organization;

(D) Any individual engaged in the activities of an educational organization where employment by the organization is in lieu of the requirement that the individual pay the cost of tuition, housing or other educational fees of the organization or where earnings of the individual employed by the organization are credited toward the payment of the cost of tuition, housing or other educational fees of the organization;

(E) Any individual employed on or about a private residence on an occasional basis for six hours or less on each occasion;

(F) Any individual employed on a casual basis to provide baby-sitting services;

(G) Any individual employed by an employer subject to the provisions of part A of subtitle IV of title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;

(H) Any individual employed on a casual or intermittent basis as a golf caddy, newsboy, or in a similar occupation;

(I) Any individual who is employed in any government position defined in 29 U.S.C. §§ 203(e)(2)(C)(i)-(ii);

(J) Any individual employed by a retail or service business whose annual gross volume sales made or business done is less than five hundred thousand dollars;

(K) Any individual who is an offender, as defined in section 217.010, who is incarcerated in any correctional facility operated by the department of corrections, including offenders who provide labor or services on the grounds of such correctional facility pursuant to section 217.550;

(L) Any individual described by the provisions of section 29 U.S.C. 213(a)(8); or

(M) Any individual engaged in construction work in the construction industry.

(8) "Employer", any person acting directly or indirectly in the interest of an employer in relation to an employee; provided, however, that for the purposes of sections 290.600 through 290.642 "employer" does not include the United States Government, the state, or a political subdivision of the state, including a department, agency, officer, bureau, division, board, commission, or instrumentality of the state, or a city, county, town, village, school district, public higher education institution, or other political subdivision of the state.

(9) "Family member", any of the following individuals:

(A) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor;

(B) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or an individual who stood in loco parentis when the employee or employee's spouse or domestic partner was a minor child;

(C) An individual to whom the employee is legally married under the laws of any state, or a domestic partner who is registered as such under the laws of any state or political subdivision;

(D) A grandparent, grandchild, or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or

(E) A person for whom the employee is responsible for providing or arranging health or safety-related care, including but not limited to helping that individual obtain diagnostic, preventative, routine, or therapeutic health treatment or ensuring the person is safe following domestic violence, sexual assault, or stalking.

(10) "Health care professional," any individual licensed under federal or any state law to provide medical or emergency services, including but not limited to doctors, nurses, certified nurse midwives, mental health professionals, and emergency room personnel.

(11) "Person", any individual, partnership, association, corporation, business, business trust, legal representative, or any organized group of persons.

(12) "Retaliatory personnel action", denial of any right guaranteed under sections 290.600 through 290.642, or any threat, discharge, suspension, demotion, reduction of hours, or any other adverse action against an employee for the exercise of any right guaranteed herein. "Retaliatory personnel action" shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding, or hearing under sections 290.600 through 290.642.

(13) "Same hourly rate", means the following:

(a) For employees paid on the basis of a single hourly rate, the same hourly rate shall be the employee's regular hourly rate.

(b) For employees who are paid multiple hourly rates of pay from the same employer, the same hourly rate shall be either:

(i) the wages the employee would have been paid for the hours absent during use of earned paid sick time if the employee had worked; or,

(ii) the weighted average of all hourly rates of pay during the previous pay period.

Whatever method the employer uses, the employer must use a consistent method for each employee throughout a year.

(c) For employees who are paid a salary, the same hourly rate shall be determined by dividing the wages the employee earns in the previous pay period by the total number of hours worked during the previous pay period. For determining total number of hours worked during the previous pay period, employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1), the Fair Labor Standards Act, shall be assumed to work 40 hours in each work week unless their normal work week is less than 40 hours, in which case earned paid sick time shall accrue and the same hourly rate shall be calculated based on the employee's normal work week. Regardless of the basis used, the same hourly rate shall not be less than the effective minimum wage specified in section 290.502.

(d) For employees paid on a piece rate or a fee-for-service basis, the same hourly rate shall be a reasonable calculation of the wages or fees the employee would have received for the piece work, service, or part thereof, if the employee had worked. Regardless of the basis used, the same hourly rate shall not be less than the effective minimum wage specified in section 290.502.

(e) For employees who are paid on a commission basis (whether base wage plus commission or commission only), the same hourly rate shall be the greater of the base wage or the effective minimum wage specified in section 290.502.

(f) For employees who receive and retain compensation in the form of gratuities in addition to wages, the same hourly rate shall be the greater of the employee's regular hourly rate or 100% of the effective minimum wage specified in section 290.502 without deduction of any tips as a credit.

(14) "Sexual assault", as such term is defined in section 455.010.

(15) "Stalking", as such term is defined in section 455.010.

(16) "Year", a regular and consecutive twelve-month period as determined by the employer; except that for the purposes of section 290.615 and section 290.627, "year" shall mean a calendar year.

290.603. 1. Employees of an employer with fifteen or more employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to use more than forty hours of earned paid sick time per year, unless the employer selects a higher limit.

2. Employees of an employer with fewer than fifteen employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to use more than twenty-four hours of earned paid sick time per year, unless the employer selects a higher limit.

3. In determining the number of employees of an employer, all employees performing work in the state for an employer for compensation on a full-time, part-time, or temporary basis shall be counted. In situations in which the number of employees performing work in the state for an employer for compensation per week fluctuates above and below 15 employees per week over the course of a year, an employer is required to provide earned paid sick time pursuant to subsection (1) of this section if it maintained fifteen or more employees in the state on the payroll for some portion of a working day in each of twenty or more different calendar weeks, including any periods of leave, and whether or not the weeks were consecutive, in either the current or the preceding year (irrespective of whether the same individuals were in employment in each working day).

4. All employees shall accrue earned paid sick time as follows:

(A) Earned paid sick time as provided in this section shall begin to accrue at the commencement of employment or on the date this law goes into effect, whichever is later. An employee shall be entitled to use earned paid sick time as it is accrued. An employer may provide all earned paid sick time that an employee is expected to accrue in a year at the beginning of the year.

(B) Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work forty hours in each work week for purposes of earned paid sick time accrual unless their normal work week is less than forty hours, in which case earned paid sick time accrues based upon that normal work week.

(C) Earned paid sick time shall be carried over to the following year, but this law does not require an employer to permit an employee to use more than the applicable number of hours of earned paid sick time per year as set forth in subsection (1) and (2) of this section. Alternatively, in lieu of carryover of unused earned paid sick time from one year to the next, an employer may pay an employee for unused earned paid sick time at the end of a year and provide the employee with an amount of paid sick time that meets or exceeds the requirements of sections 290.600 through 290.642 that is available for the employee's immediate use at the beginning of the subsequent year.

(D) If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity, or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within nine months of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.

(E) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

(F) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

5. Any employer with a paid leave policy, such as a paid time off policy, or a collective bargaining agreement, which makes available an amount of paid leave sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as earned paid sick time under sections 290.600 through 290.642, is not required to provide additional paid sick time under this section.

6. Except as specifically provided in this section, nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued earned paid sick time that has not been used.

290.606. 1. Earned paid sick time shall be provided to an employee by an employer for:

(A) An employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; an employee's need for preventative medical care;

(B) Care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; care of a family member who needs preventative medical care;

(C) Closure of the employee's place of business by order of a public official due to a public health emergency, or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease; or

(D) Absence necessary due to domestic violence, sexual assault, or stalking, provided the leave is to allow the employee to obtain for the employee or the employee's family member:

(i) Medical attention needed to recover from physical or psychological injury or disability caused by domestic violence, sexual assault, or stalking;

(ii) Services from a victim services organization;

(iii) Psychological or other counseling;

(iv) Relocation or taking steps to secure an existing home due to the domestic violence, sexual assault, or stalking; or

(v) Legal services, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence, sexual assault, or stalking.

2. Earned paid sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means, or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.

3. When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer. Where such need is not foreseeable, an employer may require an employee to provide notice of the need for the use of earned paid sick time as soon as practicable.

4. An employer that requires notice of the need to use earned paid sick time where the need is not foreseeable shall provide a written policy that contains procedures for the employee to provide notice. An employer that has

not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.

5. An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

6. Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

7. For earned paid sick time of three or more consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used for a purpose covered by subsection (1) of this section.

(A) Documentation signed by a heath care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section.

(B) In cases of domestic violence, sexual assault, or stalking, if the employer requests, one of the following types of documentation selected by the employee shall be considered reasonable documentation: (i) a police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking, (ii) a written statement from an employee or agent of a victim service provider affirming that the employee or employee's family member is or was receiving services from a victim service provider; (iii) documentation signed by a health care professional from whom the employee or employee's family member sought assistance relating to domestic violence, sexual assault, or stalking or the effects thereof; (vi) a court document indicating that an employee or employee's family member is or was involved in a legal action related to domestic violence, sexual assault, or stalking; or (v) a written statement from the employee affirming that the employee or employee's family member is taking or took earned paid sick time for a qualifying purpose of subsection (1) of this section.

(C) An employer may not require that the documentation explain the nature of the illness, details of the underlying health needs, or the details of the domestic violence, sexual assault, or stalking, unless otherwise required by law.

290.609. 1. It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under sections 290.600 through 290.642.

2. An employer shall not take retaliatory personnel action or discriminate against an employee or former employee because the individual has exercised rights protected under sections 290.600 through 290.642. Such rights include, but are not limited to, the right to request or use earned paid sick time pursuant to sections 290.600 through 290.642; the right to file a complaint or inform any person about any employer's alleged violation of sections 290.600 through 290.642; the right to participate in any investigation, hearing, or proceeding or cooperate with or assist the Department in any investigations of alleged violations of sections 290.600 through 290.642; and the right to inform any person of his or her potential rights under sections 290.600 through 290.642.

3. It shall be unlawful for an employer's absence control policy to count earned paid sick time taken under sections 290.600 through 290.642 as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

4. Protections of this section shall apply to any individual who mistakenly but in good faith alleges violations of sections 290.600 through 290.642.

290.612. 1. Employers shall give employees a written notice about earned paid sick time within fourteen calendar days of the commencement of employment or within ninety days of the effective date of this law, whichever is later, which must include the following information: (1) employees accrue and are entitled to earned paid sick time at the rate one hour of earned paid sick time for every 30 hours of work, and may use earned paid sick time, subject to the terms under sections 290.600 through 290.642 of Missouri law, (2) it is prohibited for an employer to take retaliatory personnel action against employees who request or use earned paid sick time as allowed by law, (3) each employee has the right to bring a civil action if earned paid sick time as required by sections 290.600 through 290.642 is denied by the employer or the employee is subjected to retaliatory personnel action by the employer for exercising the employee's rights under sections 290.600 through 290.642; and, (4) the contact information for the Department. Notice shall be provided by the Employer to the employee on a single piece of paper, at least 8.5 x 11, in no less than 14-point font.

2. Employers shall display a poster that contains the information required in subsection (1) of this section in a conspicuous and accessible place in each establishment where such employees are employed, provided that such poster has been provided by the Department.

3. The Department may create and make available to employers, model notices and posters that contain the information required under subsection (1) of this section for employers' use in complying with subsections (1) and (2) of this section. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department creating or making available notices or posters.

290.615. 1. Employers shall retain records documenting hours worked by employees and earned paid sick time taken by employees, for a period of not less than three years, and shall allow the Department access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of sections 290.600 through 290.642.

2. To the extent permitted by law, the Director may inspect such records, and the records shall be open for inspection by the Director by appointment. Where the records required under this section are kept outside the state, the records shall be made available to the Director upon demand. Every such employer shall furnish to the Director on demand a sworn statement of time records and information upon forms prescribed or approved by the Director. All the records and information obtained by the Department are confidential and shall be disclosed only on order of a court of competent jurisdiction.

3. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department or Director accessing or inspecting records or creating forms relating to the inspection of records.

290.618. 1. The Department may, in accordance with chapter 536, promulgate rules for the implementation, enforcement, and administration of sections 290.600 through 290.642. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

2. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the promulgation or adoption of rules.

290.621. 1. The Department may investigate and ascertain compliance with sections 290.600 through 290.642, establish and implement a system to receive complaints regarding non-compliance with sections 290.600 through 290.642 and to investigate and attempt to resolve complaints between the complainant and the subject of the complaint, and establish additional means of enforcement, including requiring by subpoena the testimony of witnesses and production of books, records, and other evidence relative to any matter under investigation or hearing, issuing notices of violation, holding hearings on notices of violation, making determinations, recovering unpaid earned sick time, and imposing fines for willful violations of up to $500 per day of each day of a continuing violation. A final decision of the department is subject to review in accordance with the provisions of chapter 536.

2. The Department may develop and implement an outreach program to inform employees, parents, and persons who are under the care of a health care provider about the availability of earned paid sick time under sections 290.600 through 290.642. This program may include the distribution of notices and other written materials to child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers in Missouri.

3. A municipality, county, city, town, or village may adopt ordinances, rules, and regulations to investigate and ascertain compliance with sections 290.600 through 290.642, establish and implement a system to receive complaints regarding non-compliance with sections 290.600 through 290.642 and to investigate and attempt to resolve complaints between the complainant and the subject of the complaint, and establish additional means of enforcement, with respect to employers within, or employees performing work while physically present in, the geographic boundaries of the municipality, county, city, town, or village. Any such ordinance, rule, or regulation shall be consistent with this law and any Department rules or regulations and system for compliance and enforcement. The municipality, county, city, town, or village may exercise such powers as allowed by any applicable charter or ordinance, including requiring by subpoena the testimony of witnesses and production of books, records, and other evidence relative to any matter under investigation or hearing, issuing notices of violation, holding hearings on notices of violation, making determinations, recovering unpaid earned sick time, and imposing fines for willful violations of up to the maximum allowed for an ordinance violation. Before investigating or seeking to resolve any complaint between the complainant and the subject of the complaint, the municipality, county, city, town, or village shall give notice to the Department with a copy of the complaint and, within 14 days of such notice, the Department may intervene as of right and participate in the matter to ensure that the complaint is being investigated and resolved in the interest of effective enforcement of sections 290.600 through 290.642 or, alternatively, the Department may institute its own proceedings in which case the municipality, county, city, town, or village shall refrain from acting on the matter so long as the complaint is being investigated and resolved in the interest of effective enforcement of sections 290.600 through 290.642. If the Department does not, within 14 days, intervene or instigate its own proceedings, the municipality, county, city, town, or village may, without the Department, investigate and attempt to resolve the complaint and take other additional means as permitted to enforce sections 290.600 through 290.642 against the subject of the complaint. In no event shall an employer be subject to compliance proceedings arising out of a single set of facts after having already been subjected to a final compliance order by another government entity.

4. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department, a municipality, county, city, town, or village conducting investigations and ascertaining compliance with sections 290.600 through 290.642, establishing and implementing a system to receive, investigate, or resolve complaints, establishing additional means of enforcement, or conducting outreach and education, including the creation of notices and other written materials, concerning sections 290.600 through 290.642.

290.624. 1. Any employer who willfully violates or fails to comply with any of the provisions and requirements of sections 290.600 through 290.642 shall be guilty of a class C misdemeanor; provided, however,

that an employer who willfully violates the notice and posting requirements of section 290.612 shall be guilty of an infraction.

2. For purposes of this section, each day of violation or failure to comply and each employee affected shall constitute a separate offense.

290.627. 1. Any individual who claims to have been aggrieved by a failure of an employer to comply with any portion of sections 290.600 through 290.642, including but not limited to the failure to provide earned paid sick time or to allow employees to use such time consistent with sections 290.600 through 290.642, or who claims to have suffered a retaliatory personnel action, shall have a right of action and may commence a civil action in the appropriate court of jurisdiction within three years of the accrual of the cause of action, to obtain appropriate relief with respect to such unlawful violation. Such action may be brought without first filing an administrative complaint.

2. In a civil action under this section, if the court finds a violation has occurred, the court may grant as relief, as it deems appropriate and to the extent permitted by law, any permanent or temporary injunction, the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of sections 290.600 through 290.642, an additional amount equal to twice any unpaid earned sick time as liquidated damages, costs, and reasonable attorney's fees as may be allowed by the court, and other legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, reinstatement to employment and back pay.

290.630. 1. Except as otherwise required by law, an employer may not require disclosure of details relating to an employee's or an employee's family member's health information, domestic violence, sexual assault, or stalking as a condition of providing earned paid sick time under sections 290.600 through 290.642.

2. Unless as otherwise required by law, any health or safety information possessed by an employer regarding an employee or employee's family member must:

(A) be maintained on a separate form and in a separate file from other personnel information;

(B) be treated as confidential medical records; and

(C) not be disclosed except to the affected employee or with the express written permission of the affected employee.

290.633. 1. Nothing in sections 290.600 through 290.642 shall be deemed to interfere, impede, or otherwise diminish the right of employees to bargain collectively through representatives of their own choosing in order to establish earned paid sick time or other conditions of work in excess of the applicable minimum standards under the provisions of sections 290.600 through 290.642.

2. Any waiver by an employee of rights under sections 290.600 through 290.642 shall be deemed contrary to public policy and shall be void.

290.636. 1. Nothing in sections 290.600 through 290.642 shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the one required herein.

2. Nothing in sections 290.600 through 290.642 shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous paid sick time to an employee than required herein. Nothing in sections 290.600 through 290.642 shall be construed as diminishing the rights of public employees regarding paid sick time or use of paid sick time as provided in the laws of Missouri and ordinances of political subdivisions pertaining to public employees.

290.639. 1. Sections 290.600 through 290.642 provide minimum requirements pertaining to earned paid sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of earned paid sick time or that extends other protections to employees.

2. Nothing in sections 290.600 through 290.642 shall be interpreted or applied to create a power or obligation contrary to any federal law, rule, or regulation.

290.642. Except as detailed in section 290.618, all of the provisions of sections 290.600 through 290.642 are severable, and if any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.600 through 290.642 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application, and to this end the provisions of sections 290.600 through 290.642 are declared severable.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-029)

Subject

Initiative petition from Lisa D'Souza regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received May 3, 2021)

Date

May 21, 2021

Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Missouri Lottery,** the **State Tax Commission,** the **Missouri Veterans Commission,** the **Missouri Ethics Commission,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City**

Board of Election Commissioners, the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Children's Trust Fund of Missouri,** the **Missouri Joint Municipal Electric Utility Commission,** the **State Auditor's office,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Missouri Gaming Commission,** the **Municipal League of Metro St. Louis, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Amy Blouin, President & CEO, Missouri Budget Project provided information to the State Auditor's office.

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated they defer to the Office of Administration for response to this initiative petition.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact. This proposal excludes state employees.

Officials from the **Department of Labor and Industrial Relations** indicated:

Space is required for 10 full time employees (FTE) X 200 square feet per FTE X $20.70 per square foot = $41,400. This FTE will be located in Cole County.

Small business will be required to comply with the law and grant employees one hour of sick leave for every thirty hours worked. The rate of pay for each hour taken in sick leave is determined by a formula that takes into account the individual employee's hourly rate (or its equivalent for salaried employees) plus a calculation of current fringe benefits. This mandate will apply to all employers in the state, regardless of size, who are not currently providing an equal or greater sick leave benefit. Employers with 15 or more employees will be required to allow the use of 40 hours of sick leave per year and those with under 15 employees will need to allow the use of 24 hours per year.

Based on the most recent data available through the Quarterly Census of Employment and Wages (QCEW), there were an average of 200,711 non-construction-related employers in Missouri for 2020, with roughly 169,120 of those employing less than 15 staff (442,275) total employees), and roughly 31,620 employ 15 or more staff (2,105,875 total employees). Assuming the average hourly wage of $24.29/hour for Missouri in 2020 and the more recent Bureau of Labor Statistic for the state that roughly 60% of employers do no provide paid leave to employees, the estimated costs to businesses as a result of this language would be:

- Up to $154,697,180 for employers with less than 15 employees at 24/hours per year.
- Up to $1,227,640,890 for employers with 15 or more employees at 40/hours per year.

This level of mandate of small businesses will be extremely costly for thousands of employers, especially considering that the allowable reasons to use sick leave are broad and include a variety of physical and mental illnesses as well as the ability to use such leave to prepare for designated legal proceedings. The ability to use such leave is allowed for "family members" which is defined broadly to extend to individuals who have no biological or legal relationship to the employee but rather stand in a relationship where the employee is "responsible for finding or arranging health or safety related care..." or has assumed an "in loco parentis" status.

Alleged failure of an employee to provide paid sick leave will subject the employer to both civil suits and criminal proceedings. Each day where an employer is found to be in violation of the law will constitute a separate offense (a C misdemeanor) along with its potentially associated fines and/or jail time.

This proposal would authorize the Department of Labor & Industrial Relations (DOLIR) to investigate allegations of non-compliance, to subpoena records, hold hearings, adjudicate such disputes and to issue fines in the amount of $500 for each day of a violation.

They estimate it would need additional FTE and ongoing costs to set up and administer the program, and a new computer system will have to be developed for this program.

Since the proposal is subject to voter approval, their estimate covers the range of costs from non-approval by voters ($0) or a decision to decline to undertake the statutorily permissible enforcement role ($0) to full implementation of the proposal.

Cost Estimate – DOLIR

They estimate the total cost to develop, administer, and maintain the program to be over $1.2 million per year (excluding benefits paid). In estimating the total costs of the program, they have used the following assumptions.

Program Operations – Sections 290.600-290.642

They estimate that three new or expanded sections will be required to administer the program: Call Center, increased staff for the Division of Labor Standards for investigative and adjudicatory functions, and an expanded administrative staff within their department to include additional attorneys in the Office of General Counsel to help conduct public hearings, administer legal process, advise on the levying of fines and to prepare cases for appeal under Chapter 536.

Call Center – Begins 1/1/23

They assume that a Call Center will be required to handle questions and concerns from claimants and employers. Based on the call volume for other programs, 3.00 Program Specialists (Range 5 - $41,929) will be required to assist callers. The section will also require 1.00 Administrative Support Assistant (Range 3 - $34,019) to provide administrative support and 1.00 Benefit Program Supervisor (Range 6 - $47,071) to manage the unit.

Section #	290.600-290.642 Program Operations - Call Center - Begins 1/1/23					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Benefit Program Specialist	5	3.00	$41,929	$62,894	$125,787	$127,045
Admin Support Asst	3	1.00	$34,019	$17,010	$34,019	$34,359
Benefit Program Supervisor	6	1.00	$47,071	$23,536	$47,071	$47,542
Total PS		**5.00**		**$103,439**	**$206,877**	**$208,946**
Fringe Benefits				**$63,152**	**$126,304**	**$126,991**
Equipment - One-Time Costs						
Standard Equipment per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	5.00	$200	$1,000		
Computer Equipment	480	5.00	$1,607	$8,035		
Office Equipment	580	5.00	$6,530	$32,650		
Total Equipment				**$41,685**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	5.00	$460	$2,300	$2,358	$2,417
Supplies	190	5.00	$372	$1,860	$1,907	$1,955
Housekeeping & Janitorial	420	5.00	$345	$1,725	$1,768	$1,812
Telecom Serv & Supp	340	5.00	$794	$3,970	$4,069	$4,171
Professional Services (Network)	400	5.00	$399	$1,995	$2,045	$2,096
Building Leases	680	5.00	$4,140	$20,700	$21,218	$21,748
Total Expenses				**$32,550**	**$33,365**	**$34,199**
Total				**$240,826**	**$366,546**	**$370,136**

Expense & Equipment (E&E)
They have utilized the standard per FTE costs when calculating operating expenses and equipment for this estimate. Additional mailing costs are detailed below.

Relief on Behalf of Affected Employees – Section 290.609.1 – Begins 1/1/23
The bill authorizes their department to bring enforcement actions against employers who do not abide by the law. This would require additional investigators, adjudicators, and attorneys.

The number of employees who would file complaints cannot be estimated at this time; however, for the sake of this estimate, they assume each case would require an average of 20 hours of attorney time and 20 hours of support staff time. For every 100 cases, 1.00 Attorney ($60,000) and 0.25 of a Paralegal ($40,000) would be required. If 100 cases are brought per year, this would require 2.00 Attorneys and 1.00 Paralegal. If there are more than 240 cases per year, and the staff are unable to absorb the additional workload, additional funding would be pursued via the appropriations process.

Standard E&E costs, along with mobile telephones and travel expenses for the Attorneys are also included in this estimate. The cost estimate assumes these cases would begin when the program becomes operational, January 1, 2023.

Section #	290.609.1 - Relief on Behalf of Affected Employees – Begins 1/1/23					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Attorney		2.00	$60,000	$60,000	$120,000	$121,200
Paralegal		1.00	$40,000	$20,000	$40,000	$40,400
Total PS		**3.00**		**$80,000**	**$160,000**	**$161,600**
Fringe Benefits				**$43,848**	**$87,696**	**$88,227**
Equipment - One-Time Costs						
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	3.00	$200	$600		
Computer Equipment	480	3.00	$1,607	$4,821		
Office Equipment	580	3.00	$6,530	$19,590		
Additional Equipment (Provide Explanation)						
Telecom-Mobile Device(s)	340	2.00	$400	$800		
Total Equipment				**$25,811**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	3.00	$460	$1,380	$1,415	$1,450
Supplies	190	3.00	$372	$1,116	$1,144	$1,173
Housekeeping & Janitorial	420	3.00	$345	$1,035	$1,061	$1,088
Telecom Serv & Supp	340	2.00	$794	$1,588	$1,628	$1,669
Professional Services (Network)	400	3.00	$399	$1,197	$1,227	$1,258
Building Leases	680	3.00	$4,140	$12,420	$12,731	$13,049
Additional Expenses (Provide Explanation)						
Travel, In-State	140	2.00	$773	$1,546	$1,585	$1,625
Telecom-Mobile Services	340	2.00	$540	$1,080	$1,107	$1,135
Total Expenses				**$21,362**	**$21,898**	**$22,447**

Outreach – Section 290.621.2

Section 290.621.2 provides for their department to develop and implement an outreach program to ensure that employees who may be eligible to receive benefits are aware of the program. The outreach program will also educate Missouri's approximately 166,282 employers. Outreach materials will be available to our partners at Missouri Job Centers, business associations, and economic development agencies and mailed to all Missouri-registered businesses quarterly.

Promotional materials, and a brochure that targets businesses while still containing information for employees might be created. They estimate the total number of brochures printed and mailed annually at 700,000.

Section #	290.621.2 - Outreach - Begins 7/1/22					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Graphic Arts Specialist III	6	0.003	$47,071	$136	$0	$0
Total PS		**0.003**		**$136**	**$0**	**$0**
Fringe Benefits				**$78**	**$0**	**$0**
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Supplies (Postage & Printing)	190	700,000	0.55	$385,000	$394,625	$404,491
Total Expenses				**$385,000**	**$394,625**	**$404,491**
Total				**$385,214**	**$394,625**	**$404,491**

Administrative Services

Since this legislation would, in effect, create a substantially expanded Division of Labor Standards within their department, it is anticipated their department will require 1.00 Deputy Division Director, and 1.00 Administrative Office Support Assistant to manage and coordinate operations of the division.

Section #	Administrative Services - begins 7/1/22					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Deputy Director		1.00	$70,000	$70,000	$70,700	$71,407
Admin Support Asst	3	1.00	$34,019	$34,019	$34,359	$34,703
Total PS		**2.00**		**$104,019**	**$105,059**	**$106,110**
Fringe Benefits				**$57,585**	**$57,930**	**$58,279**
Equipment - One-Time Costs						
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	2.00	$200	$400		
Computer Equipment	480	2.00	$1,607	$3,214		
Office Equipment	580	2.00	$6,530	$13,060		
Additional Equipment (Provide Explanation)						
Telecom-Mobile Device(s)	340	1.00	$400	$400		
Total Equipment				**$17,074**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	2.00	$460	$920	$943	$967
Supplies	190	2.00	$372	$744	$763	$782
Housekeeping & Janitorial	420	2.00	$345	$690	$707	$725
Telecom Serv & Supp	340	2.00	$794	$1,588	$1,628	$1,669
Professional Services (Network)	400	2.00	$399	$798	$818	$838
Building Leases	680	2.00	$4,140	$8,280	$8,487	$8,699
Additional Expenses (Provide Explanation)						
Travel, In-State	140	1.00	$773	$773	$792	$812
Telecom-Mobile Services	340	1.00	$540	$540	$554	$568
Total Expenses				**$14,333**	**$14,692**	**$15,060**

They further assume that additional administrative services staff will be required including legal counsel, financial management, mail services, facility management, procurement, training, and human resources. For the purposes of this estimate they project indirect costs at 5% of program operations costs (personal services and fringe benefits) beginning in fiscal year (FY) 2022. One full year of administrative costs, would be realized in FY 2022 $215,624, FY 2023 $214,874, and FY 2024 $216,957.

Standard Equipment per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Administrative 5% Indirect Costs				$22,613	$37,193	$37,508
Total Administrative Cost				**$215,624**	**$214,874**	**$216,957**

They estimate the total cost to develop, administer, and maintain the program to be over $1.2 million per year (excluding benefits paid).

	FY-2022	FY-2023	FY-2024
Personal Services	$287,594	$471,936	$476,656
Fringe Benefits	$164,663	$271,930	$273,497
Equipment and Expense	$560,428	$501,773	$513,705
Total	$1,012,684	$1,245,639	$1,263,858

Of these costs, $84,570 are one-time equipment costs in FY 2022.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's Office** indicated this proposal relating to levels of sick leave available to employees should not fiscally impact their office.

Officials from the **House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this initiative petition.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to levels of sick leave available to employees should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated no fiscal impact for their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated this petition appears to exempt local governments. However, their county already meets the requirements herein as they provide 3.69 hours of sick leave per pay period with a 1000 hour max. Therefore, there is no fiscal impact on their county.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **St. Louis County** indicated they do not have any information to provide.

Officials from the **City of Kansas City** indicated this initiative petition will have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the City of St. Louis Personnel Department has determined that the city would be exempted from the amended statutes because the definition of "employer" in chapter 290.600 specifically excludes political subdivisions of the state.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri** indicated they do not anticipate a significant financial impact.

Officials from the **Missouri Lottery** indicated no fiscal impact to their agency.

Officials from the **State Tax Commission** indicated no fiscal impact on their agency.

Officials from the **Missouri Veterans Commission** indicated this initiative petition will have no fiscal impact upon their agency. The definition of the term "employer" in the proposed section 290.600(6) RSMo explicitly excludes the State and its agencies, so the provisions of the petition would not apply to the Commission should it become law.

Officials from the **Missouri Ethics Commission** indicated they will defer to the Office of Administration.

Officials from the **St. Louis County Board of Elections** indicated this would have no fiscal impact on their Board.

Officials from the **Board of Election Commissioners City of St. Louis** indicated this proposed measure would have no fiscal impact on their organization.

Officials from the **Children's Trust Fund** indicated no impact for the Office of Administration/Children's Trust Fund.

Officials from the **State Auditor's office** indicated since this proposed initiative petition does not apply to government entities, this would have no fiscal impact on their office.

Officials from the **Missouri Gaming Commission** indicated the proposal will have no fiscal impact on their agency.

Officials from **University of Central Missouri** indicated they have determined there is potential for future fiscal impact but too speculative to estimate impact.

Section 290.603 and beyond starts the portions that will have a fiscal impact. The component that every employee after 30 hours shall be granted paid sick leave is huge when you factor in student workers, temps, adjuncts, etc. Additionally, there is a provision that states that an employee rehired within 9 months of separation shall be entitled to all unused paid sick time that was on their account when they left. This is going to be a huge administrative burden and require, at minimum, the purchase of a time and attendance system that can be programmed to track all of the variations.

Section 290.627 has provisions for civil litigation, charges, and awards for damages for violation of the provisions of this act, which is where the real ambiguous component to fiscal implication and indeterminate concerns are based.

Amy Blouin, President & CEO, Missouri Budget Project provided the following information:

MBP
MISSOURI BUDGET PROJECT

Earned Sick Leave in Missouri: Costs and Savings for Employers

In addition to helping employees by allowing them to address their health needs without losing their jobs or ability to pay their bills, paid sick leave has many benefits for employers, including a healthier workforce, reduced turnover, and increased productivity. The benefits of paid sick leave have been highlighted by the current COVID-19 pandemic, illustrating the importance of workers being able to recover at home without lost wages and without risking spread of contagious disease in the workplace.

Several possible 2022 ballot measures have been filed that would require employers to provide earned sick leave in Missouri. Though the measures vary slightly, each would require employers to provide a minimum of 3-7 days of paid leave to employees, depending on hours worked and size of business. Public employees are exempt in all versions. If implemented, Missouri would join the thirteen states, plus the District of Columbia, (in addition to dozens of municipalities) who ensure employees can earn paid sick leave to care for themselves or family members.[i]

This analysis documents the number of people who may be impacted under Missouri's proposals and how access to paid sick leave reduces employer costs. Similar savings have been documented by research covering a variety of states that have implemented earned sick leave policies.[ii] The table below provides an overview of the estimated costs and savings for employers in Missouri. **We find that expanding earned sick leave to Missouri's nearly 538,000 workers without access would provide a net savings to employers of approximately $17.4 million annually.**

Estimated Costs and Savings to Employers from Earned Sick Leave in Missouri

		Cost/Savings Per Employee		
	Total Annual	**Annual**	**Weekly**	**Hourly**
Costs	$238.05M	$442.61	$8.51	$0.21
Cost for Sick Leave	$230.35M			
Cost for Parental Leave	$7.7M			
Savings	$255.45M	$474.95	$9.13	$0.23
Reduced Turnover	$147.59M			
Reduced Presenteeism	$82.27M			
Reduced Flu Contagion	$25.59M			
Net Savings	$17.4M	$32.34	$0.62	$0.02

Access to Paid Sick Leave in Missouri

Based on an analysis of data from the Missouri Department of Economic Development (MERIC), the U.S. Bureau of Labor Statistics, and the U.S. Census Bureau, we estimate that approximately one in four (or nearly 538,000) Missouri workers would be newly covered by earned sick leave provisions through the ballot measures. These workers are concentrated primarily in service, sales & office, and production, transportation, & material moving related occupations.

Estimated Number of Workers Newly Covered by Paid Sick Leave in Missouri by Occupation

Occupation	Total Employment	Share Exempt	Workers Covered by Initiatives	Share with No Sick Leave	Estimated Workers Newly Covered
Management, Business, Science, and Arts	870,750	27%	636,515	8%	**50,921**
Service	609,500	25%	458,619	41%	**188,034**
Sales and Office	674,870	16%	568,561	23%	**130,769**
Natural Resources, Construction, and Maintenance	224,740	23%	172,541	32%	**55,213**
Production, Transportation, and Material Moving	440,740	9%	403,199	28%	**112,896**
Total	**2,820,600**	**21%**	**2,239,435**	**24%**	**537,833**

Note: Estimated workers covered by paid leave initiatives calculated as the total number of employees by occupation[iii] less the share of that occupation estimated to be exempt (self-employed or local, state, and federal government workers).[iv] Workers newly covered calculated as the total number of workers covered less the share of private workforce that already has access to paid sick leave by occupation.[v]

Cost of Earned Sick Leave to Employers

Employers would be responsible for the wages and associated benefits (such as payroll taxes and insurance) of newly eligible workers who take earned sick leave. Based on average daily wages and benefits in 2019 (see Appendix for detailed calculations), we estimate that Missouri employers would spend approximately $235 million annually on wages & benefits for workers newly eligible for earned sick leave.

Estimated Annual Cost of Earned Sick Leave to Employers

	Wages	Benefits	Total
Cost for Sick Leave	$163,333,388	$67,013,220	**$230,346,608**
Cost for Parental Leave	$5,462,868	$2,241,332	**$7,704,200**
Total	**$168,796,256**	**$69,254,552**	**$238,050,808**

Note: Average cost of earned sick leave calculated as average daily cost of wages & benefits multiplied by the average number of sick days per year[vi] (2.1) taken by workers with access to paid sick leave (or in the case of parental leave an additional 4.9 days per year for a total of 7 days); annual cost per worker is then multiplied by the number of newly covered workers by occupation to determine the annual cost of compensation for workers taking earned sick leave.

Sick Leave. Employees with access to paid leave generally do not use the full amount of paid sick leave to which they are entitled annually. A typical worker with paid sick leave uses 2.1 days of sick leave a year; around 45% of employees with access to paid leave use no sick time at all in a given year.[vii] **Adjusting for average wage by occupation, the cost of wages & benefits for newly eligible employees at 2.1 days per year is $230.3 million dollars annually.**

Parental Leave. We also assume that women who give birth will use the maximum amount of annual earned sick time (or an additional 4.9 days to equal a total of 7 sick days). Each year, 72,127 Missouri women give birth.[viii] Adjusting for employment rate among women in Missouri (56%),[ix] the estimated share of women working who are exempt (21%), and the share already covered by paid sick leave (76%), we estimate that 7,709 Missouri women will use these additional sick days for maternity care annually. **The cost of wages & benefits for newly eligible women who give birth is $7.7 million annually.**

Savings from Earned Sick Leave to Employers

The cost of earned sick leave to employers is offset by significant cost savings derived from benefits such as reduced employee turnover, reduced presenteeism (employees working at reduced capacity while sick or injured), and reduced contagion in the workplace. **We estimate that Missouri employers would save at least $255.4 million annually due to the implementation of earned sick leave policies.**

Estimated Annual Savings from Earned Sick Leave to Employers

	Wages	Benefits	Total
Reduced Turnover	$104,650,035	$42,936,327	**$147,586,363**
Reduced Presenteeism	$58,333,353	$23,933,293	**$82,266,646**
Reduced Flu Contagion	$18,147,602	$7,445,687	**$25,593,288**
Total Savings	**$181,130,990**	**$74,315,307**	**$255,446,297**

Note: Reduced turnover calculated by assuming a reduction in job turnover of 2.5 percentage points for those with new access to paid sick leave[x] at a cost of 20.7% of annual wages.[xi] Reduced presenteeism calculated by assuming workers without access to paid sick leave will work an average of 1.5 days while sick or injured[xii] at 50% effectiveness. Cost of reduced flu contagion calculated based on method presented in Abay, Rosa, & Pana-Cryan Appendix 3 using average estimates.[xiii]

Reduced Turnover. Access to paid sick leave gives workers the ability to address their health needs and those of their families, without having to quit a job or risk being fired. Access to paid sick leave is associated with reduced job turnover, which in turn creates significant savings for businesses.[xiv] **We estimate that Missouri employers will save $147.6 million annually due to reduced turnover in the workplace.**

Reduced Presenteeism. Employers who do not offer paid sick leave have higher rates of "presenteeism" or lost productivity due to employees working while injured or sick.[xv] Offering paid sick leave reduces the likelihood of working at reduced capacity and allows workers to recover from illness or injury more quickly. **We estimate that Missouri employers will save $82.3 million annually due to reduced presenteeism in the workplace.**

Reduced Flu Contagion. Workers without paid sick leave are more likely to come to work sick, increasing the likelihood of spreading the illness to other workers.[xvi] Access to paid sick leave allows workers to stay home when ill, reducing absenteeism related to contagious disease such as influenza. **We estimate that Missouri employers will save $25.6 million annually due to reduced flu contagion in the workplace.**

Appendix

Average Daily Wages & Benefits Used for Cost/Savings Calculations

Occupation	Average Hourly Wage	Average Work Hours/Day	Daily Estimated Average		
			Wage	Benefits	Total Compensation
Management, business, science, and arts	$34.93	7.41	$258.82	$113.11	$371.93
Service	$13.58	7.48	$101.57	$30.99	$132.56
Sales and Office	$18.79	7.20	$135.31	$52.37	$187.68
Natural Resources, Construction, and Maintenance	$24.39	8.11	$197.89	$93.93	$291.83
Production, Transportation, and Material Moving	$18.16	8.23	$149.51	$73.43	$222.94

Note: Average daily wage estimated by occupation using the average hourly wage by occupation[xvii] multiplied by average daily work hours by occupation.[xviii] The annual cost of benefits is calculated using the average cost of benefits as a share of total compensation by occupation.[xix] Total compensation equals the total cost of wages and benefits to employer.

Notes

i. All Missouri Workers Must Have Paid Sick Days to Open the Economy." National Partnership for Women & Families, 2020, www.nationalpartnership.org/our-work/economic-justice/frontline-workers/missouri.html.

ii. See Lovell, V. (2005). Valuing good health: An estimate of costs and savings for the Healthy Families Act. Washington, DC: Institute for Women's Policy Research.; See McKee & Milli (2019). Valuing good health in Massachusetts: The Costs and Benefits of Earned Sick Days. Washington, DC: Institute for Women's Policy Research.

iii. Occupational Employment and Wage Estimates (OES) provided by the Missouri Department of Economic Development/MERIC in cooperation with the U.S. Department of Labor Bureau of Labor Statistics (BLS).

iv. U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates. Table C24060: Occupation By Class Of Worker For The Civilian Employed Population 16 Years And Over.

v. National Compensation Survey: Employee Benefits in the United States, March 2020. U. S. Bureau of Labor Statistics (BLS).

vi. Xia, J., Hayes, J., Gault, B., & Nguyen, H. (2016). Paid sick days access and usage rates vary by race/ethnicity, occupation, and earnings. Institute for Women's Policy Research. February, 17.

vii. Xia, J., Hayes, J., Gault, B., & Nguyen, H. (2016). Paid sick days access and usage rates vary by race/ethnicity, occupation, and earnings. Institute for Women's Policy Research. February, 17.

viii. Martin, J. A., Hamilton, B. E., JK, O. M., & Driscoll, A. K. (2021). Births: Final Data for 2019.

ix. U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates. Table DP03: Selected Economic Characteristics

x. Hill, H. D. (2013). Paid sick leave and job stability. Work and occupations, 40(2), 143-173.

xi. Boushey, H., & Glynn, S. J. (2012). There are significant business costs to replacing employees. Center for American Progress, 16, 1-9.

xii. DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016). Workers without paid sick leave less likely to take time off for illness or injury compared to those with paid sick leave. Health Affairs, 35(3), 520-527.

xiii. Abay Asfaw, D., Rosa, R., & Pana-Cryan, R. (2017). Potential economic benefits of paid sick leave in reducing absenteeism related to the spread of influenza-like illness. Journal of occupational and environmental medicine, 59(9), 822.

xiv. Hill, H. D. (2013). Paid sick leave and job stability. Work and occupations, 40(2), 143-173.

xv. DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016). Workers without paid sick leave less likely to take time off for illness or injury compared to those with paid sick leave. Health Affairs, 35(3), 520-527.

xvi. Abay Asfaw, D., Rosa, R., & Pana-Cryan, R. (2017). Potential economic benefits of paid sick leave in reducing absenteeism related to the spread of influenza-like illness. Journal of occupational and environmental medicine, 59(9), 822.

xvii. Occupational Employment and Wage Estimates (OES) provided by the Missouri Department of Economic Development/MERIC in cooperation with the U.S. Department of Labor Bureau of Labor Statistics (BLS)

xviii. Bureau of Labor Statistics (BLS) American Time Use Survey – 2019 results.

xix. U.S. Bureau of Labor Statistics Employer Costs for Employee Compensation – December 2020. Table 4: Employer Costs for Employee Compensation for private industry workers by occupational and industry group

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, St. Louis Community College,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Missouri Joint Municipal Electric Utility Commission,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Municipal League of Metro St. Louis, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Fiscal Note Summary

State governmental entities estimate no savings, one-time costs ranging from $0 to at least $84,000, and ongoing costs ranging from $0 to $1.2 million per year by 2024. Local governmental entities estimate no costs or savings.

RECEIVED
MAY 03 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 3, 2021

EIVED
MAR 03 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lisa D'Souza regarding a proposed statutory amendment to Chapter 290, version 2 (2022-028)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lisa D'Souza on May 3, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John (Jay) Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022 and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2021 MAY -3 AM 9:58

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of Payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this ____day of _____, A.D. 20____.

Notary Public (Seal)

_____

Signature of Notary

My commission expires

_____.

_____

Address of Notary (Street, City, State & Zip Code)

Be it enacted by the people of the State of Missouri:

Fifteen new sections to be known as sections 290.600, 290.603, 290.606, 290.609, 290.612, 290.615, 290.618, 290.621, 290.624, 290.627, 290.630, 290.633, 290.636, 290.639, and 290.642 are enacted to read as follows:

290.600. As used in sections 290.600 through 290.642:

(1) "Department", Department of Labor and Industrial Relations.

(2) "Director", Director of the Department of Labor and Industrial Relations.

(3) "Domestic violence", as such term is defined in section 455.010.

(4) "Earned paid sick time", time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in section 290.606, but in no case shall this hourly amount be less than that provided under section 290.502.

(5) "Employee", any individual employed in this state by an employer, but does not include:

(A) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to the organization are on a voluntary basis;

(B) Any individual standing in loco parentis to foster children in their care;

(C) Any individual employed for less than four months in any year in a resident or day camp for children or youth, or any individual employed by an educational conference center operated by an educational, charitable or not-for-profit organization;

(D) Any individual engaged in the activities of an educational organization where employment by the organization is in lieu of the requirement that the individual pay the cost of tuition, housing or other educational fees of the organization or where earnings of the individual employed by the organization are credited toward the payment of the cost of tuition, housing or other educational fees of the organization;

(E) Any individual employed on or about a private residence on an occasional basis for six hours or less on each occasion;

(F) Any individual employed on a casual basis to provide baby-sitting services;

(G) Any individual employed by an employer subject to the provisions of part A of subtitle IV of title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;

(H) Any individual employed on a casual or intermittent basis as a golf caddy, newsboy, or in a similar occupation;

(I) Any individual who is employed in any government position defined in 29 U.S.C. §§ 203(e)(2)(C)(i)-(ii);

(J) Any individual employed by a retail or service business whose annual gross volume sales made or business done is less than five hundred thousand dollars;

(K) Any individual who is an offender, as defined in section 217.010, who is incarcerated in any correctional facility operated by the department of corrections, including offenders who provide labor or services on the grounds of such correctional facility pursuant to section 217.550; or,

(L) Any individual described by the provisions of section 29 U.S.C. 213(a)(8).

(6) "Employer", any person acting directly or indirectly in the interest of an employer in relation to an employee; provided, however, that for the purposes of sections 290.600 through 290.642 "employer" does not include the United States Government, the state, or a political subdivision of the state, including a department, agency, officer, bureau, division, board, commission, or instrumentality of the state, or a city, county, town, village, school district, public higher education institution, or other political subdivision of the state.

(7) "Family member", any of the following individuals:

(A) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor;

(B) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or an individual who stood in loco parentis when the employee or employee's spouse or domestic partner was a minor child;

(C) An individual to whom the employee is legally married under the laws of any state, or a domestic partner who is registered as such under the laws of any state or political subdivision;

(D) A grandparent, grandchild, or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or

(E) A person for whom the employee is responsible for providing or arranging health or safety-related care, including but not limited to helping that individual obtain diagnostic, preventative, routine, or therapeutic health treatment or ensuring the person is safe following domestic violence, sexual assault, or stalking.

(8) "Health care professional," any individual licensed under federal or any state law to provide medical or emergency services, including but not limited to doctors, nurses, certified nurse midwives, mental health professionals, and emergency room personnel.

(9) "Person", any individual, partnership, association, corporation, business, business trust, legal representative, or any organized group of persons.

(10) "Retaliatory personnel action", denial of any right guaranteed under sections 290.600 through 290.642, or any threat, discharge, suspension, demotion, reduction of hours, or any other adverse action against an employee for the exercise of any right guaranteed herein. "Retaliatory personnel action" shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding, or hearing under sections 290.600 through 290.642.

(11) "Same hourly rate", means the following:

(a) For employees paid on the basis of a single hourly rate, the same hourly rate shall be the employee's regular hourly rate.

(b) For employees who are paid multiple hourly rates of pay from the same employer, the same hourly rate shall be either:

(i) the wages the employee would have been paid for the hours absent during use of earned paid sick time if the employee had worked; or,

(ii) the weighted average of all hourly rates of pay during the previous pay period.

Whatever method the employer uses, the employer must use a consistent method for each employee throughout a year.

(c) For employees who are paid a salary, the same hourly rate shall be determined by dividing the wages the employee earns in the previous pay period by the total number of hours worked during the previous pay period. For determining total number of hours worked during the previous pay period, employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1), the Fair Labor Standards Act, shall be assumed to work 40 hours in each work week unless their normal work week is less than 40 hours, in which case earned paid sick time shall accrue and the same hourly rate shall be calculated based on the employee's normal work week. Regardless of the basis used, the same hourly rate shall not be less than the effective minimum wage specified in section 290.502.

(d) For employees paid on a piece rate or a fee-for-service basis, the same hourly rate shall be a reasonable calculation of the wages or fees the employee would have received for the piece work, service, or part thereof, if the employee had worked. Regardless of the basis used, the same hourly rate shall not be less than the effective minimum wage specified in section 290.502.

(e) For employees who are paid on a commission basis (whether base wage plus commission or commission only), the same hourly rate shall be the greater of the base wage or the effective minimum wage specified in section 290.502.

(f) For employees who receive and retain compensation in the form of gratuities in addition to wages, the same hourly rate shall be the greater of the employee's regular hourly rate or 100% of the effective minimum wage specified in section 290.502 without deduction of any tips as a credit.

(12) "Sexual assault", as such term is defined in section 455.010.

(13) "Stalking", as such term is defined in section 455.010.

(14) "Year", a regular and consecutive twelve-month period as determined by the employer; except that for the purposes of section 290.615 and section 290.627, "year" shall mean a calendar year.

290.603. 1. Employees of an employer with fifteen or more employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to use more than forty hours of earned paid sick time per year, unless the employer selects a higher limit.

2. Employees of an employer with fewer than fifteen employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to use more than twenty-four hours of earned paid sick time per year, unless the employer selects a higher limit.

3. In determining the number of employees of an employer, all employees performing work in the state for an employer for compensation on a full-time, part-time, or temporary basis shall be counted. In situations in which the number of employees performing work in the state for an employer for compensation per week fluctuates above and below 15 employees per week over the course of a year, an employer is required to provide earned paid sick time pursuant to subsection (1) of this section if it maintained fifteen or more employees in the state on the payroll for some portion of a working day in each of twenty or more different calendar weeks, including any periods of leave, and whether or not the weeks were consecutive, in either the current or the preceding year (irrespective of whether the same individuals were in employment in each working day).

4. All employees shall accrue earned paid sick time as follows:

(A) Earned paid sick time as provided in this section shall begin to accrue at the commencement of employment or on the date this law goes into effect, whichever is later. An employee shall be entitled to use earned paid sick time as it is accrued. An employer may provide all earned paid sick time that an employee is expected to accrue in a year at the beginning of the year.

(B) Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work forty hours in each work week for purposes of earned paid sick time accrual unless their normal work week is less than forty hours, in which case earned paid sick time accrues based upon that normal work week.

(C) Earned paid sick time shall be carried over to the following year, but this law does not require an employer to permit an employee to use more than the applicable number of hours of earned paid sick time per year as set forth in subsection (1) and (2) of this section. Alternatively, in lieu of carryover of unused earned

paid sick time from one year to the next, an employer may pay an employee for unused earned paid sick time at the end of a year and provide the employee with an amount of paid sick time that meets or exceeds the requirements of sections 290.600 through 290.642 that is available for the employee's immediate use at the beginning of the subsequent year.

(D) If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity, or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within nine months of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.

(E) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

(F) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

5. Any employer with a paid leave policy, such as a paid time off policy, or a collective bargaining agreement that makes available an amount of paid leave sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as earned paid sick time under sections 290.600 through 290.642 is not required to provide additional paid sick time under this section.

6. Except as specifically provided in this section, nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued earned paid sick time that has not been used.

290.606. 1. Earned paid sick time shall be provided to an employee by an employer for:

(A) An employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; an employee's need for preventative medical care;

(B) Care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; care of a family member who needs preventative medical care;

(C) Closure of the employee's place of business by order of a public official due to a public health emergency, or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease; or

(D) Absence necessary due to domestic violence, sexual assault, or stalking, provided the leave is to allow the employee to obtain for the employee or the employee's family member:

(i) Medical attention needed to recover from physical or psychological injury or disability caused by domestic violence, sexual assault, or stalking;

(ii) Services from a victim services organization;

(iii) Psychological or other counseling;

(iv) Relocation or taking steps to secure an existing home due to the domestic violence, sexual assault, or stalking; or

(v) Legal services, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence, sexual assault, or stalking.

2. Earned paid sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means, or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.

3. When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer. Where such need is not foreseeable, an employer may require an employee to provide notice of the need for the use of earned paid sick time as soon as practicable.

4. An employer that requires notice of the need to use earned paid sick time where the need is not foreseeable shall provide a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.

5. An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

6. Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

7. For earned paid sick time of three or more consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used for a purpose covered by subsection (1) of this section.

(A) Documentation signed by a heath care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section.

(B) In cases of domestic violence, sexual assault, or stalking, if the employer requests, one of the following types of documentation selected by the employee shall be considered reasonable documentation: (i) a police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking, (ii) a written statement from an employee or agent of a victim service provider affirming that the employee or employee's family member is or was receiving services from a victim service provider; (iii) documentation signed by a health care professional from whom the employee or employee's family member sought assistance relating to domestic violence, sexual assault, or stalking or the effects thereof; (vi) a court document indicating that an employee or employee's family member is or was involved in a legal action related to domestic violence, sexual assault, or stalking; or (v) a written statement from the employee affirming that the employee or employee's family member is taking or took earned paid sick time for a qualifying purpose of subsection (1) of this section.

(C) An employer may not require that the documentation explain the nature of the illness, details of the underlying health needs, or the details of the domestic violence, sexual assault, or stalking, unless otherwise required by law.

290.609. 1. It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under sections 290.600 through 290.642.

2. An employer shall not take retaliatory personnel action or discriminate against an employee or former employee because the individual has exercised rights protected under sections 290.600 through 290.642. Such rights include, but are not limited to, the right to request or use earned paid sick time pursuant to sections 290.600 through 290.642; the right to file a complaint or inform any person about any employer's alleged violation of sections 290.600 through 290.642; the right to participate in any investigation, hearing, or proceeding or cooperate with or assist the Department in any investigations of alleged violations of sections 290.600 through 290.642; and the right to inform any person of his or her potential rights under sections 290.600 through 290.642.

3. It shall be unlawful for an employer's absence control policy to count earned paid sick time taken under sections 290.600 through 290.642 as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

4. Protections of this section shall apply to any individual who mistakenly but in good faith alleges violations of sections 290.600 through 290.642.

290.612. 1. Employers shall give employees a written notice about earned paid sick time within fourteen calendar days of the commencement of employment or within ninety days of the effective date of this law, whichever is later, which must include the following information: (1) employees accrue and are entitled to earned paid sick time at the rate one hour of earned paid sick time for every 30 hours of work, and may use earned paid sick time, subject to the terms under sections 290.600 through 290.642 of Missouri law, (2) it is prohibited for an employer to take retaliatory personnel action against employees who request or use earned paid sick time as allowed by law, (3) each employee has the right to bring a civil action if earned paid sick time as required by sections 290.600 through 290.642 is denied by the employer or the employee is subjected to retaliatory personnel action by the employer for exercising the employee's rights under sections 290.600 through 290.642; and, (4) the contact information for the Department. Notice shall be provided by the Employer to the employee on a single piece of paper, at least 8.5 x 11, in no less than 14-point font.

2. Employers shall display a poster that contains the information required in subsection (1) of this section in a conspicuous and accessible place in each establishment where such employees are employed, provided that such poster has been provided by the Department.

3. The Department may create and make available to employers, model notices and posters that contain the information required under subsection (1) of this section for employers' use in complying with subsections (1) and (2) of this section. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department creating or making available notices or posters.

290.615. 1. Employers shall retain records documenting hours worked by employees and earned paid sick time taken by employees, for a period of not less than three years, and shall allow the Department access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of sections 290.600 through 290.642.

2. To the extent permitted by law, the Director may inspect such records, and the records shall be open for inspection by the Director by appointment. Where the records required under this section are kept outside the state, the records shall be made available to the Director upon demand. Every such employer shall furnish to the Director on demand a sworn statement of time records and information upon forms prescribed or approved by the Director. All the records and information obtained by the Department are confidential and shall be disclosed only on order of a court of competent jurisdiction.

3. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department or Director accessing or inspecting records or creating forms relating to the inspection of records.

290.618. 1. The Department may, in accordance with chapter 536, promulgate rules for the implementation, enforcement, and administration of sections 290.600 through 290.642. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

2. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the promulgation or adoption of rules.

290.621. 1. The Department may investigate and ascertain compliance with sections 290.600 through 290.642, establish and implement a system to receive complaints regarding non-compliance with sections 290.600 through 290.642 and to investigate and attempt to resolve complaints between the complainant and the subject of the complaint, and establish additional means of enforcement, including requiring by subpoena the testimony of witnesses and production of books, records, and other evidence relative to any matter under investigation or hearing, issuing notices of violation, holding hearings on notices of violation, making determinations, recovering unpaid earned sick time, and imposing fines for willful violations of up to $500 per day of each day of a continuing violation. A final decision of the department is subject to review in accordance with the provisions of chapter 536.

2. The Department may develop and implement an outreach program to inform employees, parents, and persons who are under the care of a health care provider about the availability of earned paid sick time under sections 290.600 through 290.642. This program may include the distribution of notices and other written materials to child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers in Missouri.

3. A municipality, county, city, town, or village may adopt ordinances, rules, and regulations to investigate and ascertain compliance with sections 290.600 through 290.642, establish and implement a system to receive complaints regarding non-compliance with sections 290.600 through 290.642 and to investigate and attempt to resolve complaints between the complainant and the subject of the complaint, and establish additional means of enforcement, with respect to employers within, or employees performing work while physically present in, the geographic boundaries of the municipality, county, city, town, or village. Any such ordinance, rule, or regulation shall be consistent with this law and any Department rules or regulations and system for compliance and enforcement. The municipality, county, city, town, or village may exercise such powers as allowed by any applicable charter or ordinance, including requiring by subpoena the testimony of witnesses and production of books, records, and other evidence relative to any matter under investigation or hearing, issuing notices of violation, holding hearings on notices of violation, making determinations, recovering unpaid earned sick time, and imposing fines for willful violations of up to the maximum allowed for an ordinance violation. Before investigating or seeking to resolve any complaint between the complainant and the subject of the complaint, the municipality, county, city, town, or village shall give notice to the Department with a copy of the complaint and, within 14 days of such notice, the Department may intervene as of right and participate in the matter to ensure that the complaint is being investigated and resolved in the interest of effective enforcement of sections 290.600 through 290.642 or, alternatively, the Department may institute its own proceedings in which case the municipality, county, city, town, or village shall refrain from acting on the matter so long as the complaint is being investigated and resolved in the interest of effective enforcement of sections 290.600 through 290.642. If the Department does not, within 14 days, intervene or instigate its own proceedings, the municipality, county, city, town, or village may, without the Department, investigate and attempt to resolve the complaint and take other additional means as permitted to enforce sections 290.600 through 290.642 against the subject of the complaint. In no event shall an employer be subject to compliance proceedings arising out of a single set of facts after having already been subjected to a final compliance order by another government entity.

4. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department, a municipality, county, city, town, or village conducting investigations and ascertaining compliance with sections 290.600 through 290.642, establishing and implementing a system to receive, investigate, or resolve complaints, establishing additional means of enforcement, or conducting outreach and education, including the creation of notices and other written materials, concerning sections 290.600 through 290.642.

290.624. 1. Any employer who willfully violates or fails to comply with any of the provisions and requirements of sections 290.600 through 290.642 shall be guilty of a class C misdemeanor; provided, however, that an employer who willfully violates the notice and posting requirements of section 290.612 shall be guilty of an infraction.

2. For purposes of this section, each day of violation or failure to comply and each employee affected shall constitute a separate offense.

290.627. 1. Any individual who claims to have been aggrieved by a failure of an employer to comply with any portion of sections 290.600 through 290.642, including but not limited to the failure to provide earned paid sick time or to allow employees to use such time consistent with sections 290.600 through 290.642, or who claims to have suffered a retaliatory personnel action, shall have a right of action and may commence a civil action in the appropriate court of jurisdiction within three years of the accrual of the cause of action, to obtain appropriate relief with respect to such unlawful violation. Such action may be brought without first filing an administrative complaint.

2. In a civil action under this section, if the court finds a violation has occurred, the court may grant as relief, as it deems appropriate and to the extent permitted by law, any permanent or temporary injunction, the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of sections 290.600 through 290.642, an additional amount equal to twice any unpaid earned sick time as liquidated damages, costs, and reasonable attorney's fees as may be allowed by the court, and other legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, reinstatement to employment and back pay.

290.630. 1. Except as otherwise required by law, an employer may not require disclosure of details relating to an employee's or an employee's family member's health information, domestic violence, sexual assault, or stalking as a condition of providing earned paid sick time under sections 290.600 through 290.642.

2. Unless as otherwise required by law, any health or safety information possessed by an employer regarding an employee or employee's family member must:

(A) be maintained on a separate form and in a separate file from other personnel information;

(B) be treated as confidential medical records; and

(C) not be disclosed except to the affected employee or with the express written permission of the affected employee.

290.633. 1. Nothing in sections 290.600 through 290.642 shall be deemed to interfere, impede, or otherwise diminish the right of employees to bargain collectively through representatives of their own choosing in order to establish earned paid sick time or other conditions of work in excess of the applicable minimum standards under the provisions of sections 290.600 through 290.642.

2. Any waiver by an employee of rights under sections 290.600 through 290.642 shall be deemed contrary to public policy and shall be void.

290.636. 1. Nothing in sections 290.600 through 290.642 shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the one required herein.

2. Nothing in sections 290.600 through 290.642 shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous paid sick time to an employee than required herein. Nothing in sections 290.600 through 290.642 shall be construed as diminishing the rights of public employees regarding paid sick time or use of paid sick time as provided in the laws of Missouri and ordinances of political subdivisions pertaining to public employees.

290.639. 1. Sections 290.600 through 290.642 provide minimum requirements pertaining to earned paid sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of earned paid sick time or that extends other protections to employees.

2. Nothing in sections 290.600 through 290.642 shall be interpreted or applied to create a power or obligation contrary to any federal law, rule, or regulation.

290.642. Except as detailed in section 290.618, all of the provisions of sections 290.600 through 290.642 are severable, and if any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.600 through 290.642 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application, and to this end the provisions of sections 290.600 through 290.642 are declared severable.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-028)

Subject

Initiative petition from Lisa D'Souza regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received May 3, 2021)

Date

May 21, 2021

Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Missouri Lottery,** the **State Tax Commission,** the **Missouri Veterans Commission,** the **Missouri Ethics Commission,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City**

Board of Election Commissioners, the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Children's Trust Fund of Missouri,** the **Missouri Joint Municipal Electric Utility Commission,** the **State Auditor's office,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Missouri Gaming Commission,** the **Municipal League of Metro St. Louis, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Amy Blouin, President & CEO, Missouri Budget Project provided information to the State Auditor's office.

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated they defer to the Office of Administration for response to this initiative petition.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact. This proposal excludes state employees.

Officials from the **Department of Labor and Industrial Relations** indicated:

Space is required for 10 full time employees (FTE) X 200 square feet per FTE X $20.70 per square foot = $41,400. This FTE will be located in Cole County.

Small business will be required to comply with the law and grant employees one hour of sick leave for every thirty hours worked. The rate of pay for each hour taken in sick leave is determined by a formula that takes into account the individual employee's hourly rate (or its equivalent for salaried employees) plus a calculation of current fringe benefits. This mandate will apply to all employers in the state, regardless of size, who are not currently providing an equal or greater sick leave benefit. Employers with 15 or more employees will be required to allow the use of 40 hours of sick leave per year and those with under 15 employees will need to allow the use of 24 hours per year.

Based on the most recent data available through the Quarterly Census of Employment and Wages (QCEW), there were an average of 216,229 employers in Missouri for 2020, with 182,616 of those employing less than 15 staff (482,325 total employees), and 33,613 employ 15 or more staff (2,176,397 total employees). Assuming the average hourly wage of $24.29/hour for Missouri in 2020 and the more recent Bureau of Labor Statistic for the state that roughly 60% of employers do no provide paid leave to employees, the estimated costs to businesses as a result of this language would be:

- Up to $168,705,709 for employers with less than 15 employees at 24/hours per year.
- Up to $1,268,752,395 for employers with 15 or more employees at 40/hours per year.

This level of mandate of small businesses will be extremely costly for thousands of employers, especially considering that the allowable reasons to use sick leave are broad and include a variety of physical and mental illnesses as well as the ability to use such leave to prepare for designated legal proceedings. The ability to use such leave is allowed for "family members" which is defined broadly to extend to individuals who have no biological or legal relationship to the employee but rather stand in a relationship where the employee is "responsible for finding or arranging health or safety related care..." or has assumed an "in loco parentis" status.

Alleged failure of an employee to provide paid sick leave will subject the employer to both civil suits and criminal proceedings. Each day where an employer is found to be in violation of the law will constitute a separate offense (a C misdemeanor) along with its potentially associated fines and/or jail time.

This proposal would authorize the Department of Labor & Industrial Relations (DOLIR) to investigate allegations of non-compliance, to subpoena records, hold hearings, adjudicate such disputes and to issue fines in the amount of $500 for each day of a violation.

They estimate it would need additional FTE and ongoing costs to set up and administer the program, and a new computer system will have to be developed for this program.

Since the proposal is subject to voter approval, their estimate covers the range of costs from non-approval by voters ($0) or a decision to decline to undertake the statutorily permissible enforcement role ($0) to full implementation of the proposal.

Cost Estimate – DOLIR

They estimate the total cost to develop, administer, and maintain the program to be over $1.2 million per year (excluding benefits paid). In estimating the total costs of the program, they have used the following assumptions.

Program Operations – Sections 290.600-290.642

They estimate that three new or expanded sections will be required to administer the program: Call Center, increased staff for the Division of Labor Standards for investigative and adjudicatory functions, and an expanded administrative staff within their department to include additional attorneys in the Office of General Counsel to help conduct public hearings, administer legal process, advise on the levying of fines and to prepare cases for appeal under Chapter 536.

Call Center – Begins 1/1/23

They assume that a Call Center will be required to handle questions and concerns from claimants and employers. Based on the call volume for other programs, 3.00 Program Specialists (Range 5 - $41,929) will be required to assist callers. The section will also require 1.00 Administrative Support Assistant (Range 3 - $34,019) to provide administrative support and 1.00 Benefit Program Supervisor (Range 6 - $47,071) to manage the unit.

Section #	290.600-290.642 Program Operations - Call Center - Begins 1/1/23					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Benefit Program Specialist	5	3.00	$41,929	$62,894	$125,787	$127,045
Admin Support Asst	3	1.00	$34,019	$17,010	$34,019	$34,359
Benefit Program Supervisor	6	1.00	$47,071	$23,536	$47,071	$47,542
Total PS		**5.00**		**$103,439**	**$206,877**	**$208,946**
Fringe Benefits				**$63,152**	**$126,304**	**$126,991**
Equipment - One-Time Costs						
Standard Equipment per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	5.00	$200	$1,000		
Computer Equipment	480	5.00	$1,607	$8,035		
Office Equipment	580	5.00	$6,530	$32,650		
Total Equipment				**$41,685**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	5.00	$460	$2,300	$2,358	$2,417
Supplies	190	5.00	$372	$1,860	$1,907	$1,955
Housekeeping & Janitorial	420	5.00	$345	$1,725	$1,768	$1,812
Telecom Serv & Supp	340	5.00	$794	$3,970	$4,069	$4,171
Professional Services (Network)	400	5.00	$399	$1,995	$2,045	$2,096
Building Leases	680	5.00	$4,140	$20,700	$21,218	$21,748
Total Expenses				**$32,550**	**$33,365**	**$34,199**
Total				**$240,826**	**$366,546**	**$370,136**

Expense & Equipment (E&E)
They have utilized the standard per FTE costs when calculating operating expenses and equipment for this estimate. Additional mailing costs are detailed below.

Relief on Behalf of Affected Employees – Section 290.609.1 – Begins 1/1/23
The bill authorizes their department to bring enforcement actions against employers who do not abide by the law. This would require additional investigators, adjudicators, and attorneys.

The number of employees who would file complaints cannot be estimated at this time; however, for the sake of this estimate, they assume each case would require an average of 20 hours of attorney time and 20 hours of support staff time. For every 100 cases, 1.00 Attorney ($60,000) and 0.25 of a Paralegal ($40,000) would be required. If 100 cases are brought per year, this would require 2.00 Attorneys and 1.00 Paralegal. If there are more than 240 cases per year, and the staff are unable to absorb the additional workload, additional funding would be pursued via the appropriations process.

Standard E&E costs, along with mobile telephones and travel expenses for the Attorneys are also included in this estimate. The cost estimate assumes these cases would begin when the program becomes operational, January 1, 2023.

Section #	290.609.1 - Relief on Behalf of Affected Employees – Begins 1/1/23					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Attorney		2.00	$60,000	$60,000	$120,000	$121,200
Paralegal		1.00	$40,000	$20,000	$40,000	$40,400
Total PS		**3.00**		**$80,000**	**$160,000**	**$161,600**
Fringe Benefits				**$43,848**	**$87,696**	**$88,227**
Equipment - One-Time Costs						
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	3.00	$200	$600		
Computer Equipment	480	3.00	$1,607	$4,821		
Office Equipment	580	3.00	$6,530	$19,590		
Additional Equipment (Provide Explanation)						
Telecom-Mobile Device(s)	340	2.00	$400	$800		
Total Equipment				**$25,811**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	3.00	$460	$1,380	$1,415	$1,450
Supplies	190	3.00	$372	$1,116	$1,144	$1,173
Housekeeping & Janitorial	420	3.00	$345	$1,035	$1,061	$1,088
Telecom Serv & Supp	340	2.00	$794	$1,588	$1,628	$1,669
Professional Services (Network)	400	3.00	$399	$1,197	$1,227	$1,258
Building Leases	680	3.00	$4,140	$12,420	$12,731	$13,049
Additional Expenses (Provide Explanation)						
Travel, In-State	140	2.00	$773	$1,546	$1,585	$1,625
Telecom-Mobile Services	340	2.00	$540	$1,080	$1,107	$1,135
Total Expenses				**$21,362**	**$21,898**	**$22,447**

Outreach – Section 290.621.2

Section 290.621.2 provides for their department to develop and implement an outreach program to ensure that employees who may be eligible to receive benefits are aware of the program. The outreach program will also educate Missouri's approximately 166,282 employers. Outreach materials will be available to our partners at Missouri Job Centers, business associations, and economic development agencies and mailed to all Missouri-registered businesses quarterly.

Promotional materials, and a brochure that targets businesses while still containing information for employees might be created. They estimate the total number of brochures printed and mailed annually at 700,000.

Section #	290.621.2 - Outreach - Begins 7/1/22					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Graphic Arts Specialist III	6	0.003	$47,071	$136	$0	$0
Total PS		**0.003**		**$136**	**$0**	**$0**
Fringe Benefits				**$78**	**$0**	**$0**
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Supplies (Postage & Printing)	190	700,000	0.55	$385,000	$394,625	$404,491
Total Expenses				**$385,000**	**$394,625**	**$404,491**
Total				**$385,214**	**$394,625**	**$404,491**

Administrative Services

Since this legislation would, in effect, create a substantially expanded Division of Labor Standards within their department, it is anticipated their department will require 1.00 Deputy Division Director, and 1.00 Administrative Office Support Assistant to manage and coordinate operations of the division.

Section #	Administrative Services - begins 7/1/22					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Deputy Director		1.00	$70,000	$70,000	$70,700	$71,407
Admin Support Asst	3	1.00	$34,019	$34,019	$34,359	$34,703
Total PS		**2.00**		**$104,019**	**$105,059**	**$106,110**
Fringe Benefits				**$57,585**	**$57,930**	**$58,279**
Equipment - One-Time Costs						
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	2.00	$200	$400		
Computer Equipment	480	2.00	$1,607	$3,214		
Office Equipment	580	2.00	$6,530	$13,060		
Additional Equipment (Provide Explanation)						
Telecom-Mobile Device(s)	340	1.00	$400	$400		
Total Equipment				**$17,074**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	2.00	$460	$920	$943	$967
Supplies	190	2.00	$372	$744	$763	$782
Housekeeping & Janitorial	420	2.00	$345	$690	$707	$725
Telecom Serv & Supp	340	2.00	$794	$1,588	$1,628	$1,669
Professional Services (Network)	400	2.00	$399	$798	$818	$838
Building Leases	680	2.00	$4,140	$8,280	$8,487	$8,699
Additional Expenses (Provide Explanation)						
Travel, In-State	140	1.00	$773	$773	$792	$812
Telecom-Mobile Services	340	1.00	$540	$540	$554	$568
Total Expenses				**$14,333**	**$14,692**	**$15,060**

They further assume that additional administrative services staff will be required including legal counsel, financial management, mail services, facility management, procurement, training, and human resources. For the purposes of this estimate they project indirect costs at 5% of program operations costs (personal services and fringe benefits) beginning in fiscal year (FY) 2022. One full year of administrative costs, would be realized in FY 2022 $215,624, FY 2023 $214,874, and FY 2024 $216,957.

Standard Equipment per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Administrative 5% Indirect Costs				$22,613	$37,193	$37,508
Total Administrative Cost				**$215,624**	**$214,874**	**$216,957**

They estimate the total cost to develop, administer, and maintain the program to be over $1.2 million per year (excluding benefits paid).

	FY-2022	FY-2023	FY-2024
Personal Services	$287,594	$471,936	$476,656
Fringe Benefits	$164,663	$271,930	$273,497
Equipment and Expense	$560,428	$501,773	$513,705
Total	$1,012,684	$1,245,639	$1,263,858

Of these costs, $84,570 are one-time equipment costs in FY 2022.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's Office** indicated this proposal relating to levels of sick leave available to employees should not fiscally impact their office.

Officials from the **House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this initiative petition.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to levels of sick leave available to employees should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated no fiscal impact for their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated this petition appears to exempt local governments. However, their county already meets the requirements herein as they provide 3.69 hours of sick leave per pay period with a 1000 hour max. Therefore, there is no fiscal impact on their county.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **St. Louis County** indicated they do not have any information to provide.

Officials from the **City of Kansas City** indicated this initiative petition will have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the City of St. Louis Personnel Department has determined that the city would be exempted from the amended statutes because the definition of "employer" in chapter 290.600 specifically excludes political subdivisions of the state.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri** indicated they do not anticipate a significant financial impact.

Officials from the **Missouri Lottery** indicated no fiscal impact to their agency.

Officials from the **State Tax Commission** indicated no fiscal impact on their agency.

Officials from the **Missouri Veterans Commission** indicated this initiative petition will have no fiscal impact upon their agency. The definition of the term "employer" in the proposed section 290.600(6) RSMo explicitly excludes the State and its agencies, so the provisions of the petition would not apply to the Commission should it become law.

Officials from the **Missouri Ethics Commission** indicated they defer to the Office of Administration.

Officials from the **St. Louis County Board of Elections** indicated this would have no fiscal impact on their Board.

Officials from the **Board of Election Commissioners City of St. Louis** indicated this proposed measure would have no fiscal impact on their organization.

Officials from the **Children's Trust Fund** indicated no impact for the Office of Administration/Children's Trust Fund.

Officials from the **State Auditor's office** indicated since this proposed initiative petition does not apply to government entities, this would have no fiscal impact on their office.

Officials from the **Missouri Gaming Commission** indicated the proposal will have no fiscal impact on their agency.

Officials from **University of Central Missouri** indicated they have determined there is potential for future fiscal impact but too speculative to estimate impact.

Section 290.603 and beyond starts the portions that will have a fiscal impact. The component that every employee after 30 hours shall be granted paid sick leave is huge when you factor in student workers, temps, adjuncts, etc. Additionally, there is a provision that states that an employee rehired within 9 months of separation shall be entitled to all unused paid sick time that was on their account when they left. This is going to be a huge administrative burden and require, at minimum, the purchase of a time and attendance system that can be programmed to track all of the variations.

Section 290.627 has provisions for civil litigation, charges, and awards for damages for violation of the provisions of this act, which is where the real ambiguous component to fiscal implication and indeterminate concerns are based.

Amy Blouin, President & CEO, Missouri Budget Project provided the following information:

MBP
MISSOURI BUDGET PROJECT

Earned Sick Leave in Missouri: Costs and Savings for Employers

In addition to helping employees by allowing them to address their health needs without losing their jobs or ability to pay their bills, paid sick leave has many benefits for employers, including a healthier workforce, reduced turnover, and increased productivity. The benefits of paid sick leave have been highlighted by the current COVID-19 pandemic, illustrating the importance of workers being able to recover at home without lost wages and without risking spread of contagious disease in the workplace.

Several possible 2022 ballot measures have been filed that would require employers to provide earned sick leave in Missouri. Though the measures vary slightly, each would require employers to provide a minimum of 3-7 days of paid leave to employees, depending on hours worked and size of business. Public employees are exempt in all versions. If implemented, Missouri would join the thirteen states, plus the District of Columbia, (in addition to dozens of municipalities) who ensure employees can earn paid sick leave to care for themselves or family members.[i]

This analysis documents the number of people who may be impacted under Missouri's proposals and how access to paid sick leave reduces employer costs. Similar savings have been documented by research covering a variety of states that have implemented earned sick leave policies.[ii] The table below provides an overview of the estimated costs and savings for employers in Missouri. **We find that expanding earned sick leave to Missouri's nearly 538,000 workers without access would provide a net savings to employers of approximately $17.4 million annually.**

Estimated Costs and Savings to Employers from Earned Sick Leave in Missouri

		Cost/Savings Per Employee		
	Total Annual	**Annual**	**Weekly**	**Hourly**
Costs	$238.05M	$442.61	$8.51	$0.21
Cost for Sick Leave	$230.35M			
Cost for Parental Leave	$7.7M			
Savings	$255.45M	$474.95	$9.13	$0.23
Reduced Turnover	$147.59M			
Reduced Presenteeism	$82.27M			
Reduced Flu Contagion	$25.59M			
Net Savings	$17.4M	$32.34	$0.62	$0.02

Access to Paid Sick Leave in Missouri

Based on an analysis of data from the Missouri Department of Economic Development (MERIC), the U.S. Bureau of Labor Statistics, and the U.S. Census Bureau, we estimate that approximately one in four (or nearly 538,000) Missouri workers would be newly covered by earned sick leave provisions through the ballot measures. These workers are concentrated primarily in service, sales & office, and production, transportation, & material moving related occupations.

Estimated Number of Workers Newly Covered by Paid Sick Leave in Missouri by Occupation

Occupation	Total Employment	Share Exempt	Workers Covered by Initiatives	Share with No Sick Leave	Estimated Workers Newly Covered
Management, Business, Science, and Arts	870,750	27%	636,515	8%	**50,921**
Service	609,500	25%	458,619	41%	**188,034**
Sales and Office	674,870	16%	568,561	23%	**130,769**
Natural Resources, Construction, and Maintenance	224,740	23%	172,541	32%	**55,213**
Production, Transportation, and Material Moving	440,740	9%	403,199	28%	**112,896**
Total	**2,820,600**	**21%**	**2,239,435**	**24%**	**537,833**

Note: Estimated workers covered by paid leave initiatives calculated as the total number of employees by occupation[iii] less the share of that occupation estimated to be exempt (self-employed or local, state, and federal government workers).[iv] Workers newly covered calculated as the total number of workers covered less the share of private workforce that already has access to paid sick leave by occupation.[v]

Cost of Earned Sick Leave to Employers

Employers would be responsible for the wages and associated benefits (such as payroll taxes and insurance) of newly eligible workers who take earned sick leave. Based on average daily wages and benefits in 2019 (see Appendix for detailed calculations), we estimate that Missouri employers would spend approximately $235 million annually on wages & benefits for workers newly eligible for earned sick leave.

Estimated Annual Cost of Earned Sick Leave to Employers

	Wages	Benefits	Total
Cost for Sick Leave	$163,333,388	$67,013,220	**$230,346,608**
Cost for Parental Leave	$5,462,868	$2,241,332	**$7,704,200**
Total	**$168,796,256**	**$69,254,552**	**$238,050,808**

Note: Average cost of earned sick leave calculated as average daily cost of wages & benefits multiplied by the average number of sick days per year[vi] (2.1) taken by workers with access to paid sick leave (or in the case of parental leave an additional 4.9 days per year for a total of 7 days); annual cost per worker is then multiplied by the number of newly covered workers by occupation to determine the annual cost of compensation for workers taking earned sick leave.

Sick Leave. Employees with access to paid leave generally do not use the full amount of paid sick leave to which they are entitled annually. A typical worker with paid sick leave uses 2.1 days of sick leave a year; around 45% of employees with access to paid leave use no sick time at all in a given year.[vii] **Adjusting for average wage by occupation, the cost of wages & benefits for newly eligible employees at 2.1 days per year is $230.3 million dollars annually.**

Parental Leave. We also assume that women who give birth will use the maximum amount of annual earned sick time (or an additional 4.9 days to equal a total of 7 sick days). Each year, 72,127 Missouri women give birth.[viii] Adjusting for employment rate among women in Missouri (56%),[ix] the estimated share of women working who are exempt (21%), and the share already covered by paid sick leave (76%), we estimate that 7,709 Missouri women will use these additional sick days for maternity care annually. **The cost of wages & benefits for newly eligible women who give birth is $7.7 million annually.**

Savings from Earned Sick Leave to Employers

The cost of earned sick leave to employers is offset by significant cost savings derived from benefits such as reduced employee turnover, reduced presenteeism (employees working at reduced capacity while sick or injured), and reduced contagion in the workplace. **We estimate that Missouri employers would save at least $255.4 million annually due to the implementation of earned sick leave policies.**

Estimated Annual Savings from Earned Sick Leave to Employers

	Wages	Benefits	Total
Reduced Turnover	$104,650,035	$42,936,327	**$147,586,363**
Reduced Presenteeism	$58,333,353	$23,933,293	**$82,266,646**
Reduced Flu Contagion	$18,147,602	$7,445,687	**$25,593,288**
Total Savings	**$181,130,990**	**$74,315,307**	**$255,446,297**

Note: Reduced turnover calculated by assuming a reduction in job turnover of 2.5 percentage points for those with new access to paid sick leave[x] at a cost of 20.7% of annual wages.[xi] Reduced presenteeism calculated by assuming workers without access to paid sick leave will work an average of 1.5 days while sick or injured[xii] at 50% effectiveness. Cost of reduced flu contagion calculated based on method presented in Abay, Rosa, & Pana-Cryan Appendix 3 using average estimates.[xiii]

Reduced Turnover. Access to paid sick leave gives workers the ability to address their health needs and those of their families, without having to quit a job or risk being fired. Access to paid sick leave is associated with reduced job turnover, which in turn creates significant savings for businesses.[xiv] **We estimate that Missouri employers will save $147.6 million annually due to reduced turnover in the workplace.**

Reduced Presenteeism. Employers who do not offer paid sick leave have higher rates of "presenteeism" or lost productivity due to employees working while injured or sick.[xv] Offering paid sick leave reduces the likelihood of working at reduced capacity and allows workers to recover from illness or injury more quickly. **We estimate that Missouri employers will save $82.3 million annually due to reduced presenteeism in the workplace.**

Reduced Flu Contagion. Workers without paid sick leave are more likely to come to work sick, increasing the likelihood of spreading the illness to other workers.[xvi] Access to paid sick leave allows workers to stay home when ill, reducing absenteeism related to contagious disease such as influenza. **We estimate that Missouri employers will save $25.6 million annually due to reduced flu contagion in the workplace.**

Appendix

Average Daily Wages & Benefits Used for Cost/Savings Calculations

Occupation	Average Hourly Wage	Average Work Hours/Day	Daily Estimated Average		
			Wage	Benefits	Total Compensation
Management, business, science, and arts	$34.93	7.41	$258.82	$113.11	$371.93
Service	$13.58	7.48	$101.57	$30.99	$132.56
Sales and Office	$18.79	7.20	$135.31	$52.37	$187.68
Natural Resources, Construction, and Maintenance	$24.39	8.11	$197.89	$93.93	$291.83
Production, Transportation, and Material Moving	$18.16	8.23	$149.51	$73.43	$222.94

Note: Average daily wage estimated by occupation using the average hourly wage by occupation[xvii] multiplied by average daily work hours by occupation.[xviii] The annual cost of benefits is calculated using the average cost of benefits as a share of total compensation by occupation.[xix] Total compensation equals the total cost of wages and benefits to employer.

Notes

i. All Missouri Workers Must Have Paid Sick Days to Open the Economy." National Partnership for Women & Families, 2020, www.nationalpartnership.org/our-work/economic-justice/frontline-workers/missouri.html.

ii. See Lovell, V. (2005). Valuing good health: An estimate of costs and savings for the Healthy Families Act. Washington, DC: Institute for Women's Policy Research.; See McKee & Milli (2019). Valuing good health in Massachusetts: The Costs and Benefits of Earned Sick Days. Washington, DC: Institute for Women's Policy Research.

iii. Occupational Employment and Wage Estimates (OES) provided by the Missouri Department of Economic Development/MERIC in cooperation with the U.S. Department of Labor Bureau of Labor Statistics (BLS).

iv. U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates. Table C24060: Occupation By Class Of Worker For The Civilian Employed Population 16 Years And Over.

v. National Compensation Survey: Employee Benefits in the United States, March 2020. U. S. Bureau of Labor Statistics (BLS).

vi. Xia, J., Hayes, J., Gault, B., & Nguyen, H. (2016). Paid sick days access and usage rates vary by race/ethnicity, occupation, and earnings. Institute for Women's Policy Research. February, 17.

vii. Xia, J., Hayes, J., Gault, B., & Nguyen, H. (2016). Paid sick days access and usage rates vary by race/ethnicity, occupation, and earnings. Institute for Women's Policy Research. February, 17.

viii. Martin, J. A., Hamilton, B. E., JK, O. M., & Driscoll, A. K. (2021). Births: Final Data for 2019.

ix. U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates. Table DP03: Selected Economic Characteristics

x. Hill, H. D. (2013). Paid sick leave and job stability. Work and occupations, 40(2), 143-173.

xi. Boushey, H., & Glynn, S. J. (2012). There are significant business costs to replacing employees. Center for American Progress, 16, 1-9.

xii. DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016). Workers without paid sick leave less likely to take time off for illness or injury compared to those with paid sick leave. Health Affairs, 35(3), 520-527.

xiii. Abay Asfaw, D., Rosa, R., & Pana-Cryan, R. (2017). Potential economic benefits of paid sick leave in reducing absenteeism related to the spread of influenza-like illness. Journal of occupational and environmental medicine, 59(9), 822.

xiv. Hill, H. D. (2013). Paid sick leave and job stability. Work and occupations, 40(2), 143-173.

xv. DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016). Workers without paid sick leave less likely to take time off for illness or injury compared to those with paid sick leave. Health Affairs, 35(3), 520-527.

xvi. Abay Asfaw, D., Rosa, R., & Pana-Cryan, R. (2017). Potential economic benefits of paid sick leave in reducing absenteeism related to the spread of influenza-like illness. Journal of occupational and environmental medicine, 59(9), 822.

xvii. Occupational Employment and Wage Estimates (OES) provided by the Missouri Department of Economic Development/MERIC in cooperation with the U.S. Department of Labor Bureau of Labor Statistics (BLS)

xviii. Bureau of Labor Statistics (BLS) American Time Use Survey – 2019 results.

xix. U.S. Bureau of Labor Statistics Employer Costs for Employee Compensation – December 2020. Table 4: Employer Costs for Employee Compensation for private industry workers by occupational and industry group

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, St. Louis Community College,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Missouri Joint Municipal Electric Utility Commission,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Municipal League of Metro St. Louis, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Fiscal Note Summary

State governmental entities estimate no savings, one-time costs ranging from $0 to at least $84,000, and ongoing costs ranging from $0 to $1.2 million per year by 2024. Local governmental entities estimate no costs or savings.

22-027

RECEIVED
MAY 03 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

May 3, 2021

RECEIVED
MAR 03 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Lisa D'Souza regarding a proposed statutory amendment to Chapter 290, version 1 (2022-027)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Lisa D'Souza on May 3, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____

Page No. _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John (Jay) Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022 and each for himself or herself says: I have personally signed this petition, I am a registered voter of the state of Missouri and _____ County (or city of St. Louis), my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

[Official Ballot title]

RECEIVED
2021 MAY -3 AM 9:17

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Number) (Street), (City, Town, or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence, I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ____ do not ____ (check one) expect to be paid for circulating this petition.

If paid, list the payer:

_____ _____

(Name of Payer) Signature of Affiant (Person obtaining signatures)

_____

Printed Name of Affiant

_____

Address of Affiant (Street, City, State & Zip Code)

Subscribed and sworn to before me this _____day of _____, A.D. 20_____.

Notary Public (Seal)

_____

Signature of Notary

My commission expires

_____. _____

Address of Notary (Street, City, State & Zip Code)

Be it enacted by the people of the State of Missouri:

Fifteen new sections to be known as sections 290.600, 290.603, 290.606, 290.609, 290.612, 290.615, 290.618, 290.621, 290.624, 290.627, 290.630, 290.633, 290.636, 290.639, and 290.642 are enacted to read as follows:

290.600. As used in sections 290.600 through 290.642:

(1) "Department", Department of Labor and Industrial Relations.

(2) "Director", Director of the Department of Labor and Industrial Relations.

(3) "Domestic violence", as such term is defined in section 455.010.

(4) "Earned paid sick time", time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns during hours worked and is provided by an employer to an employee for the purposes described in section 290.606, but in no case shall this hourly amount be less than that provided under section 290.502.

(5) "Employee", any individual employed in this state by an employer, but does not include:

(A) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to the organization are on a voluntary basis;

(B) Any individual standing in loco parentis to foster children in their care;

(C) Any individual employed for less than four months in any year in a resident or day camp for children or youth, or any individual employed by an educational conference center operated by an educational, charitable or not-for-profit organization;

(D) Any individual engaged in the activities of an educational organization where employment by the organization is in lieu of the requirement that the individual pay the cost of tuition, housing or other educational fees of the organization or where earnings of the individual employed by the organization are credited toward the payment of the cost of tuition, housing or other educational fees of the organization;

(E) Any individual employed on or about a private residence on an occasional basis for six hours or less on each occasion;

(F) Any individual employed on a casual basis to provide baby-sitting services;

(G) Any individual employed by an employer subject to the provisions of part A of subtitle IV of title 49, United States Code, 49 U.S.C. §§ 10101 et seq.;

(H) Any individual employed on a casual or intermittent basis as a golf caddy, newsboy, or in a similar occupation;

(I) Any individual who is employed in any government position defined in 29 U.S.C. §§ 203(e)(2)(C)(i)-(ii);

(J) Any individual employed by a retail or service business whose annual gross volume sales made or business done is less than five hundred thousand dollars;

(K) Any individual who is an offender, as defined in section 217.010, who is incarcerated in any correctional facility operated by the department of corrections, including offenders who provide labor or services on the grounds of such correctional facility pursuant to section 217.550; or,

(L) Any individual described by the provisions of section 29 U.S.C. 213(a)(8).

(6) "Employer", any person acting directly or indirectly in the interest of an employer in relation to an employee; provided, however, that for the purposes of sections 290.600 through 290.642 "employer" does not include the United States Government, the state, or a political subdivision of the state, including a department, agency, officer, bureau, division, board, commission, or instrumentality of the state, or a city, county, town, village, school district, public higher education institution, or other political subdivision of the state.

(7) "Family member", any of the following individuals:

(A) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor;

(B) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or an individual who stood in loco parentis when the employee or employee's spouse or domestic partner was a minor child;

(C) An individual to whom the employee is legally married under the laws of any state, or a domestic partner who is registered as such under the laws of any state or political subdivision;

(D) A grandparent, grandchild, or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or

(E) A person for whom the employee is responsible for providing or arranging health or safety-related care, including but not limited to helping that individual obtain diagnostic, preventative, routine, or therapeutic health treatment or ensuring the person is safe following domestic violence, sexual assault, or stalking.

(8) "Health care professional," any individual licensed under federal or any state law to provide medical or emergency services, including but not limited to doctors, nurses, certified nurse midwives, mental health professionals, and emergency room personnel.

(9) "Person", any individual, partnership, association, corporation, business, business trust, legal representative, or any organized group of persons.

(10) "Retaliatory personnel action", denial of any right guaranteed under sections 290.600 through 290.642, or any threat, discharge, suspension, demotion, reduction of hours, or any other adverse action against an employee for the exercise of any right guaranteed herein. "Retaliatory personnel action" shall also include interference with or punishment for in any manner participating in or assisting an investigation, proceeding, or hearing under sections 290.600 through 290.642.

(11) "Same hourly rate", means the following:

(a) For employees paid on the basis of a single hourly rate, the same hourly rate shall be the employee's regular hourly rate.

(b) For employees who are paid multiple hourly rates of pay from the same employer, the same hourly rate shall be either:

(i) the wages the employee would have been paid for the hours absent during use of earned paid sick time if the employee had worked; or,

(ii) the weighted average of all hourly rates of pay during the previous pay period.

Whatever method the employer uses, the employer must use a consistent method for each employee throughout a year.

(c) For employees who are paid a salary, the same hourly rate shall be determined by dividing the wages the employee earns in the previous pay period by the total number of hours worked during the previous pay period. For determining total number of hours worked during the previous pay period, employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1), the Fair Labor Standards Act, shall be assumed to work 40 hours in each work week unless their normal work week is less than 40 hours, in which case earned paid sick time shall accrue and the same hourly rate shall be calculated based on the employee's normal work week. Regardless of the basis used, the same hourly rate shall not be less than the effective minimum wage specified in section 290.502.

(d) For employees paid on a piece rate or a fee-for-service basis, the same hourly rate shall be a reasonable calculation of the wages or fees the employee would have received for the piece work, service, or part thereof, if the employee had worked. Regardless of the basis used, the same hourly rate shall not be less than the effective minimum wage specified in section 290.502.

(e) For employees who are paid on a commission basis (whether base wage plus commission or commission only), the same hourly rate shall be the greater of the base wage or the effective minimum wage specified in section 290.502.

(f) For employees who receive and retain compensation in the form of gratuities in addition to wages, the same hourly rate shall be the greater of the employee's regular hourly rate or 100% of the effective minimum wage specified in section 290.502 without deduction of any tips as a credit.

(12) "Sexual assault", as such term is defined in section 455.010.

(13) "Stalking", as such term is defined in section 455.010.

(14) "Year", a regular and consecutive twelve-month period as determined by the employer; except that for the purposes of section 290.615 and section 290.627, "year" shall mean a calendar year.

290.603. 1. Employees of an employer with fifteen or more employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to use more than forty hours of earned paid sick time per year, unless the employer selects a higher limit.

2. Employees of an employer with fewer than fifteen employees shall accrue a minimum of one hour of earned paid sick time for every thirty hours worked, but such employees shall not be entitled to use more than twenty-four hours of earned paid sick time per year, unless the employer selects a higher limit.

3. In determining the number of employees of an employer, all employees performing work in the state for an employer for compensation on a full-time, part-time, or temporary basis shall be counted. In situations in which the number of employees performing work in the state for an employer for compensation per week fluctuates above and below 15 employees per week over the course of a year, an employer is required to provide earned paid sick time pursuant to subsection (1) of this section if it maintained fifteen or more employees in the state on the payroll for some portion of a working day in each of twenty or more different calendar weeks, including any periods of leave, and whether or not the weeks were consecutive, in either the current or the preceding year (irrespective of whether the same individuals were in employment in each working day).

4. All employees shall accrue earned paid sick time as follows:

(A) Earned paid sick time as provided in this section shall begin to accrue at the commencement of employment or on the date this law goes into effect, whichever is later. An employee shall be entitled to use earned paid sick time as it is accrued. An employer may provide all earned paid sick time that an employee is expected to accrue in a year at the beginning of the year.

(B) Employees who are exempt from overtime requirements under 29 U.S.C. § 213(a)(1) of the Federal Fair Labor Standards Act will be assumed to work forty hours in each work week for purposes of earned paid sick time accrual unless their normal work week is less than forty hours, in which case earned paid sick time accrues based upon that normal work week.

(C) Earned paid sick time shall be carried over to the following year, but this law does not require an employer to permit an employee to use more than the applicable number of hours of earned paid sick time per year as set forth in subsection (1) and (2) of this section. Alternatively, in lieu of carryover of unused earned

paid sick time from one year to the next, an employer may pay an employee for unused earned paid sick time at the end of a year and provide the employee with an amount of paid sick time that meets or exceeds the requirements of sections 290.600 through 290.642 that is available for the employee's immediate use at the beginning of the subsequent year.

(D) If an employee is transferred to a separate division, entity, or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity, or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within nine months of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.

(E) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

(F) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

5. Any employer with a paid leave policy, such as a paid time off policy, or a collective bargaining agreement that makes available an amount of paid leave sufficient to meet the accrual requirements of this section that may be used for the same purposes and under the same conditions as earned paid sick time under sections 290.600 through 290.642 is not required to provide additional paid sick time under this section.

6. Except as specifically provided in this section, nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued earned paid sick time that has not been used.

290.606. 1. Earned paid sick time shall be provided to an employee by an employer for:

(A) An employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; an employee's need for preventative medical care;

(B) Care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; care of a family member who needs preventative medical care;

(C) Closure of the employee's place of business by order of a public official due to a public health emergency, or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease; or

(D) Absence necessary due to domestic violence, sexual assault, or stalking, provided the leave is to allow the employee to obtain for the employee or the employee's family member:

(i) Medical attention needed to recover from physical or psychological injury or disability caused by domestic violence, sexual assault, or stalking;

(ii) Services from a victim services organization;

(iii) Psychological or other counseling;

(iv) Relocation or taking steps to secure an existing home due to the domestic violence, sexual assault, or stalking; or

(v) Legal services, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the domestic violence, sexual assault, or stalking.

2. Earned paid sick time shall be provided upon the request of an employee. Such request may be made orally, in writing, by electronic means, or by any other means acceptable to the employer. When possible, the request shall include the expected duration of the absence.

3. When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer. Where such need is not foreseeable, an employer may require an employee to provide notice of the need for the use of earned paid sick time as soon as practicable.

4. An employer that requires notice of the need to use earned paid sick time where the need is not foreseeable shall provide a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.

5. An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

6. Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

7. For earned paid sick time of three or more consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used for a purpose covered by subsection (1) of this section.

(A) Documentation signed by a heath care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section.

(B) In cases of domestic violence, sexual assault, or stalking, if the employer requests, one of the following types of documentation selected by the employee shall be considered reasonable documentation: (i) a police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking, (ii) a written statement from an employee or agent of a victim service provider affirming that the employee or employee's family member is or was receiving services from a victim service provider; (iii) documentation signed by a health care professional from whom the employee or employee's family member sought assistance relating to domestic violence, sexual assault, or stalking or the effects thereof; (vi) a court document indicating that an employee or employee's family member is or was involved in a legal action related to domestic violence, sexual assault, or stalking; or (v) a written statement from the employee affirming that the employee or employee's family member is taking or took earned paid sick time for a qualifying purpose of subsection (1) of this section.

(C) An employer may not require that the documentation explain the nature of the illness, details of the underlying health needs, or the details of the domestic violence, sexual assault, or stalking, unless otherwise required by law.

290.609. 1. It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under sections 290.600 through 290.642.

2. An employer shall not take retaliatory personnel action or discriminate against an employee or former employee because the individual has exercised rights protected under sections 290.600 through 290.642. Such rights include, but are not limited to, the right to request or use earned paid sick time pursuant to sections 290.600 through 290.642; the right to file a complaint or inform any person about any employer's alleged violation of sections 290.600 through 290.642; the right to participate in any investigation, hearing, or proceeding or cooperate with or assist the Department in any investigations of alleged violations of sections 290.600 through 290.642; and the right to inform any person of his or her potential rights under sections 290.600 through 290.642.

3. It shall be unlawful for an employer's absence control policy to count earned paid sick time taken under sections 290.600 through 290.642 as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action.

4. Protections of this section shall apply to any individual who mistakenly but in good faith alleges violations of sections 290.600 through 290.642.

290.612. 1. Employers shall give employees a written notice about earned paid sick time within fourteen calendar days of the commencement of employment or within ninety days of the effective date of this law, whichever is later, which must include the following information: (1) employees accrue and are entitled to earned paid sick time at the rate one hour of earned paid sick time for every 30 hours of work, and may use earned paid sick time, subject to the terms under sections 290.600 through 290.642 of Missouri law, (2) it is prohibited for an employer to take retaliatory personnel action against employees who request or use earned paid sick time as allowed by law, (3) each employee has the right to bring a civil action if earned paid sick time as required by sections 290.600 through 290.642 is denied by the employer or the employee is subjected to retaliatory personnel action by the employer for exercising the employee's rights under sections 290.600 through 290.642; and, (4) the contact information for the Department. Notice shall be provided by the Employer to the employee on a single piece of paper, at least 8.5 x 11, in no less than 14-point font.

2. Employers shall display a poster that contains the information required in subsection (1) of this section in a conspicuous and accessible place in each establishment where such employees are employed, provided that such poster has been provided by the Department.

3. The Department may create and make available to employers, model notices and posters that contain the information required under subsection (1) of this section for employers' use in complying with subsections (1) and (2) of this section. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department creating or making available notices or posters.

290.615. 1. Employers shall retain records documenting hours worked by employees and earned paid sick time taken by employees, for a period of not less than three years, and shall allow the Department access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of sections 290.600 through 290.642.

2. To the extent permitted by law, the Director may inspect such records, and the records shall be open for inspection by the Director by appointment. Where the records required under this section are kept outside the state, the records shall be made available to the Director upon demand. Every such employer shall furnish to the Director on demand a sworn statement of time records and information upon forms prescribed or approved by the Director. All the records and information obtained by the Department are confidential and shall be disclosed only on order of a court of competent jurisdiction.

3. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department or Director accessing or inspecting records or creating forms relating to the inspection of records.

290.618. 1. The Department may, in accordance with chapter 536, promulgate rules for the implementation, enforcement, and administration of sections 290.600 through 290.642. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

2. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the promulgation or adoption of rules.

290.621. 1. The Department may investigate and ascertain compliance with sections 290.600 through 290.642, establish and implement a system to receive complaints regarding non-compliance with sections 290.600 through 290.642 and to investigate and attempt to resolve complaints between the complainant and the subject of the complaint, and establish additional means of enforcement, including requiring by subpoena the testimony of witnesses and production of books, records, and other evidence relative to any matter under investigation or hearing, issuing notices of violation, holding hearings on notices of violation, making determinations, recovering unpaid earned sick time, and imposing fines for willful violations of up to $500 per day of each day of a continuing violation. A final decision of the department is subject to review in accordance with the provisions of chapter 536.

2. The Department may develop and implement an outreach program to inform employees, parents, and persons who are under the care of a health care provider about the availability of earned paid sick time under sections 290.600 through 290.642. This program may include the distribution of notices and other written materials to child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers in Missouri.

3. A municipality, county, city, town, or village may adopt ordinances, rules, and regulations to investigate and ascertain compliance with sections 290.600 through 290.642, establish and implement a system to receive complaints regarding non-compliance with sections 290.600 through 290.642 and to investigate and attempt to resolve complaints between the complainant and the subject of the complaint, and establish additional means of enforcement, with respect to employers within, or employees performing work while physically present in, the geographic boundaries of the municipality, county, city, town, or village. Any such ordinance, rule, or regulation shall be consistent with this law and any Department rules or regulations and system for compliance and enforcement. The municipality, county, city, town, or village may exercise such powers as allowed by any applicable charter or ordinance, including requiring by subpoena the testimony of witnesses and production of books, records, and other evidence relative to any matter under investigation or hearing, issuing notices of violation, holding hearings on notices of violation, making determinations, recovering unpaid earned sick time, and imposing fines for willful violations of up to the maximum allowed for an ordinance violation. Before investigating or seeking to resolve any complaint between the complainant and the subject of the complaint, the municipality, county, city, town, or village shall give notice to the Department with a copy of the complaint and, within 14 days of such notice, the Department may intervene as of right and participate in the matter to ensure that the complaint is being investigated and resolved in the interest of effective enforcement of sections 290.600 through 290.642 or, alternatively, the Department may institute its own proceedings in which case the municipality, county, city, town, or village shall refrain from acting on the matter so long as the complaint is being investigated and resolved in the interest of effective enforcement of sections 290.600 through 290.642. If the Department does not, within 14 days, intervene or instigate its own proceedings, the municipality, county, city, town, or village may, without the Department, investigate and attempt to resolve the complaint and take other additional means as permitted to enforce sections 290.600 through 290.642 against the subject of the complaint. In no event shall an employer be subject to compliance proceedings arising out of a single set of facts after having already been subjected to a final compliance order by another government entity.

4. Nothing in sections 290.600 through 290.642 shall be interpreted or applied, either expressly or through practical necessity, to require the appropriation of funds to cover the costs associated with the Department, a municipality, county, city, town, or village conducting investigations and ascertaining compliance with sections 290.600 through 290.642, establishing and implementing a system to receive, investigate, or resolve complaints, establishing additional means of enforcement, or conducting outreach and education, including the creation of notices and other written materials, concerning sections 290.600 through 290.642.

290.624. 1. Any employer who willfully violates or fails to comply with any of the provisions and requirements of sections 290.600 through 290.642 shall be guilty of a class C misdemeanor; provided, however, that an employer who willfully violates the notice and posting requirements of section 290.612 shall be guilty of an infraction.

2. For purposes of this section, each day of violation or failure to comply and each employee affected shall constitute a separate offense.

290.627. 1. Any individual who claims to have been aggrieved by a failure of an employer to comply with any portion of sections 290.600 through 290.642, including but not limited to the failure to provide earned paid sick time or to allow employees to use such time consistent with sections 290.600 through 290.642, or who claims to have suffered a retaliatory personnel action, shall have a right of action and may commence a civil action in the appropriate court of jurisdiction within three years of the accrual of the cause of action, to obtain appropriate relief with respect to such unlawful violation. Such action may be brought without first filing an administrative complaint.

2. In a civil action under this section, if the court finds a violation has occurred, the court may grant as relief, as it deems appropriate and to the extent permitted by law, any permanent or temporary injunction, the full amount of any unpaid earned sick time plus any actual damages suffered as the result of the employer's violation of sections 290.600 through 290.642, an additional amount equal to twice any unpaid earned sick time as liquidated damages, costs, and reasonable attorney's fees as may be allowed by the court, and other legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, reinstatement to employment and back pay.

290.630. 1. Except as otherwise required by law, an employer may not require disclosure of details relating to an employee's or an employee's family member's health information, domestic violence, sexual assault, or stalking as a condition of providing earned paid sick time under sections 290.600 through 290.642.

2. Unless as otherwise required by law, any health or safety information possessed by an employer regarding an employee or employee's family member must:

(A) be maintained on a separate form and in a separate file from other personnel information;

(B) be treated as confidential medical records; and

(C) not be disclosed except to the affected employee or with the express written permission of the affected employee.

290.633. 1. Nothing in sections 290.600 through 290.642 shall be deemed to interfere, impede, or otherwise diminish the right of employees to bargain collectively through representatives of their own choosing in order to establish earned paid sick time or other conditions of work in excess of the applicable minimum standards under the provisions of sections 290.600 through 290.642.

2. All or any portion of the earned paid sick time requirements of sections 290.600 through 290.642 shall not apply to employees covered by a bona fide collective bargaining agreement to the extent that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

3. With the exception noted in subsection 2, any waiver by an employee of rights under sections 290.600 through 290.642 shall be deemed contrary to public policy and shall be void.

290.636. 1. Nothing in sections 290.600 through 290.642 shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the one required herein.

2. Nothing in sections 290.600 through 290.642 shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous paid sick time to an employee than required herein. Nothing in sections 290.600 through 290.642 shall be construed as diminishing the rights of public employees regarding paid sick time or use of paid sick time as provided in the laws of Missouri and ordinances of political subdivisions pertaining to public employees.

290.639. 1. Sections 290.600 through 290.642 provide minimum requirements pertaining to earned paid sick time and shall not be construed to preempt, limit, or otherwise affect the applicability of any other law, regulation, requirement, policy, or standard that provides for greater accrual or use by employees of earned paid sick time or that extends other protections to employees.

2. Nothing in sections 290.600 through 290.642 shall be interpreted or applied to create a power or obligation contrary to any federal law, rule, or regulation.

290.642. Except as detailed in section 290.618, all of the provisions of sections 290.600 through 290.642 are severable, and if any provision, including any section, subsection, subdivision, paragraph, sentence, or clause, or the application thereof to any person or circumstance, is found by a court of competent jurisdiction to be invalid, unconstitutional, or unconstitutionally enacted, such decision shall not affect other provisions or applications of sections 290.600 through 290.642 that can be given effect without the invalid, unconstitutional, or unconstitutionally enacted provision or application, and to this end the provisions of sections 290.600 through 290.642 are declared severable.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-027)

Subject

Initiative petition from Lisa D'Souza regarding a proposed amendment to Chapter 290 of the Revised Statutes of Missouri. (Received May 3, 2021)

Date

May 21, 2021

Description

This proposal would amend Chapter 290 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Missouri Lottery,** the **State Tax Commission,** the **Missouri Veterans Commission,** the **Missouri Ethics Commission,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City**

Board of Election Commissioners, the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Children's Trust Fund of Missouri,** the **Missouri Joint Municipal Electric Utility Commission,** the **State Auditor's office,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Missouri Gaming Commission,** the **Municipal League of Metro St. Louis, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Amy Blouin, President & CEO, Missouri Budget Project provided information to the State Auditor's office.

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated they defer to the Office of Administration for response to this initiative petition.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no impact. This proposal excludes state employees.

Officials from the **Department of Labor and Industrial Relations** indicated:

Space is required for 10 full time employees (FTE) X 200 square feet per FTE X $20.70 per square foot = $41,400. This FTE will be located in Cole County.

Small business will be required to comply with the law and grant employees one hour of sick leave for every thirty hours worked. The rate of pay for each hour taken in sick leave is determined by a formula that takes into account the individual employee's hourly rate (or its equivalent for salaried employees) plus a calculation of current fringe benefits. This mandate will apply to all employers in the state, regardless of size, who are not currently providing an equal or greater sick leave benefit. Employers with 15 or more employees will be required to allow the use of 40 hours of sick leave per year and those with under 15 employees will need to allow the use of 24 hours per year.

Based on the most recent data available through the Quarterly Census of Employment and Wages (QCEW), there were an average of 216,229 employers in Missouri for 2020, with 182,616 of those employing less than 15 staff (482,325 total employees), and 33,613 employ 15 or more staff (2,176,397 total employees). Assuming the average hourly wage of $24.29/hour for Missouri in 2020 and the more recent Bureau of Labor Statistic for the state that roughly 60% of employers do no provide paid leave to employees, the estimated costs to businesses as a result of this language would be:

- Up to $168,705,709 for employers with less than 15 employees at 24/hours per year.
- Up to $1,268,752,395 for employers with 15 or more employees at 40/hours per year.

This level of mandate of small businesses will be extremely costly for thousands of employers, especially considering that the allowable reasons to use sick leave are broad and include a variety of physical and mental illnesses as well as the ability to use such leave to prepare for designated legal proceedings. The ability to use such leave is allowed for "family members" which is defined broadly to extend to individuals who have no biological or legal relationship to the employee but rather stand in a relationship where the employee is "responsible for finding or arranging health or safety related care..." or has assumed an "in loco parentis" status.

Alleged failure of an employee to provide paid sick leave will subject the employer to both civil suits and criminal proceedings. Each day where an employer is found to be in violation of the law will constitute a separate offense (a C misdemeanor) along with its potentially associated fines and/or jail time.

This proposal would authorize the Department of Labor & Industrial Relations (DOLIR) to investigate allegations of non-compliance, to subpoena records, hold hearings, adjudicate such disputes and to issue fines in the amount of $500 for each day of a violation.

They estimate it would need additional FTE and ongoing costs to set up and administer the program, and a new computer system will have to be developed for this program.

Since the proposal is subject to voter approval, their estimate covers the range of costs from non-approval by voters ($0) or a decision to decline to undertake the statutorily permissible enforcement role ($0) to full implementation of the proposal.

Cost Estimate – DOLIR

They estimate the total cost to develop, administer, and maintain the program to be over $1.2 million per year (excluding benefits paid). In estimating the total costs of the program, they have used the following assumptions.

Program Operations – Sections 290.600-290.642

They estimate that three new or expanded sections will be required to administer the program: Call Center, increased staff for the Division of Labor Standards for investigative and adjudicatory functions, and an expanded administrative staff within their department to include additional attorneys in the Office of General Counsel to help conduct public hearings, administer legal process, advise on the levying of fines and to prepare cases for appeal under Chapter 536.

Call Center – Begins 1/1/23

They assume that a Call Center will be required to handle questions and concerns from claimants and employers. Based on the call volume for other programs, 3.00 Program Specialists (Range 5 - $41,929) will be required to assist callers. The section will also require 1.00 Administrative Support Assistant (Range 3 - $34,019) to provide administrative support and 1.00 Benefit Program Supervisor (Range 6 - $47,071) to manage the unit.

Section #	290.600-290.642 Program Operations - Call Center - Begins 1/1/23					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Benefit Program Specialist	5	3.00	$41,929	$62,894	$125,787	$127,045
Admin Support Asst	3	1.00	$34,019	$17,010	$34,019	$34,359
Benefit Program Supervisor	6	1.00	$47,071	$23,536	$47,071	$47,542
Total PS		**5.00**		**$103,439**	**$206,877**	**$208,946**
Fringe Benefits				**$63,152**	**$126,304**	**$126,991**
Equipment - One-Time Costs						
Standard Equipment per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	5.00	$200	$1,000		
Computer Equipment	480	5.00	$1,607	$8,035		
Office Equipment	580	5.00	$6,530	$32,650		
Total Equipment				**$41,685**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	5.00	$460	$2,300	$2,358	$2,417
Supplies	190	5.00	$372	$1,860	$1,907	$1,955
Housekeeping & Janitorial	420	5.00	$345	$1,725	$1,768	$1,812
Telecom Serv & Supp	340	5.00	$794	$3,970	$4,069	$4,171
Professional Services (Network)	400	5.00	$399	$1,995	$2,045	$2,096
Building Leases	680	5.00	$4,140	$20,700	$21,218	$21,748
Total Expenses				**$32,550**	**$33,365**	**$34,199**
Total				**$240,826**	**$366,546**	**$370,136**

Expense & Equipment (E&E)
They have utilized the standard per FTE costs when calculating operating expenses and equipment for this estimate. Additional mailing costs are detailed below.

Relief on Behalf of Affected Employees – Section 290.609.1 – Begins 1/1/23
The bill authorizes their department to bring enforcement actions against employers who do not abide by the law. This would require additional investigators, adjudicators, and attorneys.

The number of employees who would file complaints cannot be estimated at this time; however, for the sake of this estimate, they assume each case would require an average of 20 hours of attorney time and 20 hours of support staff time. For every 100 cases, 1.00 Attorney ($60,000) and 0.25 of a Paralegal ($40,000) would be required. If 100 cases are brought per year, this would require 2.00 Attorneys and 1.00 Paralegal. If there are more than 240 cases per year, and the staff are unable to absorb the additional workload, additional funding would be pursued via the appropriations process.

Standard E&E costs, along with mobile telephones and travel expenses for the Attorneys are also included in this estimate. The cost estimate assumes these cases would begin when the program becomes operational, January 1, 2023.

Section #	290.609.1 - Relief on Behalf of Affected Employees – Begins 1/1/23					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Attorney		2.00	$60,000	$60,000	$120,000	$121,200
Paralegal		1.00	$40,000	$20,000	$40,000	$40,400
Total PS		**3.00**		**$80,000**	**$160,000**	**$161,600**
Fringe Benefits				**$43,848**	**$87,696**	**$88,227**
Equipment - One-Time Costs						
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	3.00	$200	$600		
Computer Equipment	480	3.00	$1,607	$4,821		
Office Equipment	580	3.00	$6,530	$19,590		
Additional Equipment (Provide Explanation)						
Telecom-Mobile Device(s)	340	2.00	$400	$800		
Total Equipment				**$25,811**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	3.00	$460	$1,380	$1,415	$1,450
Supplies	190	3.00	$372	$1,116	$1,144	$1,173
Housekeeping & Janitorial	420	3.00	$345	$1,035	$1,061	$1,088
Telecom Serv & Supp	340	2.00	$794	$1,588	$1,628	$1,669
Professional Services (Network)	400	3.00	$399	$1,197	$1,227	$1,258
Building Leases	680	3.00	$4,140	$12,420	$12,731	$13,049
Additional Expenses (Provide Explanation)						
Travel, In-State	140	2.00	$773	$1,546	$1,585	$1,625
Telecom-Mobile Services	340	2.00	$540	$1,080	$1,107	$1,135
Total Expenses				**$21,362**	**$21,898**	**$22,447**

Outreach – Section 290.621.2

Section 290.621.2 provides for their department to develop and implement an outreach program to ensure that employees who may be eligible to receive benefits are aware of the program. The outreach program will also educate Missouri's approximately 166,282 employers. Outreach materials will be available to our partners at Missouri Job Centers, business associations, and economic development agencies and mailed to all Missouri-registered businesses quarterly.

Promotional materials, and a brochure that targets businesses while still containing information for employees might be created. They estimate the total number of brochures printed and mailed annually at 700,000.

Section #	290.621.2 - Outreach - Begins 7/1/22					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Graphic Arts Specialist III	6	0.003	$47,071	$136	$0	$0
Total PS		**0.003**		**$136**	**$0**	**$0**
Fringe Benefits				**$78**	**$0**	**$0**
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Supplies (Postage & Printing)	190	700,000	0.55	$385,000	$394,625	$404,491
Total Expenses				**$385,000**	**$394,625**	**$404,491**
Total				**$385,214**	**$394,625**	**$404,491**

Administrative Services

Since this legislation would, in effect, create a substantially expanded Division of Labor Standards within their department, it is anticipated their department will require 1.00 Deputy Division Director, and 1.00 Administrative Office Support Assistant to manage and coordinate operations of the division.

Section #	Administrative Services - begins 7/1/22					
Personal Services						
Job Class	Range	FTE	Salary	FY 2022	FY 2023	FY 2024
Deputy Director		1.00	$70,000	$70,000	$70,700	$71,407
Admin Support Asst	3	1.00	$34,019	$34,019	$34,359	$34,703
Total PS		**2.00**		**$104,019**	**$105,059**	**$106,110**
Fringe Benefits				**$57,585**	**$57,930**	**$58,279**
Equipment - One-Time Costs						
	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Telecom Equipment	340	2.00	$200	$400		
Computer Equipment	480	2.00	$1,607	$3,214		
Office Equipment	580	2.00	$6,530	$13,060		
Additional Equipment (Provide Explanation)						
Telecom-Mobile Device(s)	340	1.00	$400	$400		
Total Equipment				**$17,074**	**$0**	**$0**
Expenses - Ongoing Costs						
Standard Expenses per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Fuel & Utilities	180	2.00	$460	$920	$943	$967
Supplies	190	2.00	$372	$744	$763	$782
Housekeeping & Janitorial	420	2.00	$345	$690	$707	$725
Telecom Serv & Supp	340	2.00	$794	$1,588	$1,628	$1,669
Professional Services (Network)	400	2.00	$399	$798	$818	$838
Building Leases	680	2.00	$4,140	$8,280	$8,487	$8,699
Additional Expenses (Provide Explanation)						
Travel, In-State	140	1.00	$773	$773	$792	$812
Telecom-Mobile Services	340	1.00	$540	$540	$554	$568
Total Expenses				**$14,333**	**$14,692**	**$15,060**

They further assume that additional administrative services staff will be required including legal counsel, financial management, mail services, facility management, procurement, training, and human resources. For the purposes of this estimate they project indirect costs at 5% of program operations costs (personal services and fringe benefits) beginning in fiscal year (FY) 2022. One full year of administrative costs, would be realized in FY 2022 $215,624, FY 2023 $214,874, and FY 2024 $216,957.

Standard Equipment per FTE	BOBC	Units	Cost	FY 2022	FY 2023	FY 2024
Administrative 5% Indirect Costs				$22,613	$37,193	$37,508
Total Administrative Cost				**$215,624**	**$214,874**	**$216,957**

They estimate the total cost to develop, administer, and maintain the program to be over $1.2 million per year (excluding benefits paid).

	FY-2022	FY-2023	FY-2024
Personal Services	$287,594	$471,936	$476,656
Fringe Benefits	$164,663	$271,930	$273,497
Equipment and Expense	$560,428	$501,773	$513,705
Total	$1,012,684	$1,245,639	$1,263,858

Of these costs, $84,570 are one-time equipment costs in FY 2022.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's Office** indicated this proposal relating to levels of sick leave available to employees should not fiscally impact their office.

Officials from the **House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this initiative petition.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to levels of sick leave available to employees should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated no fiscal impact for their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated this petition appears to exempt local governments. However, their county already meets the requirements herein as they provide 3.69 hours of sick leave per pay period with a 1000 hour max. Therefore, there is no fiscal impact on their county.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **St. Louis County** indicated they do not have any information to provide.

Officials from the **City of Kansas City** indicated this initiative petition will have no fiscal impact on their city.

Officials from the **City of St. Louis** indicated the City of St. Louis Personnel Department has determined that the city would be exempted from the amended statutes because the definition of "employer" in chapter 290.600 specifically excludes political subdivisions of the state.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Missouri** indicated they do not anticipate a significant financial impact.

Officials from the **Missouri Lottery** indicated no fiscal impact to their agency.

Officials from the **State Tax Commission** indicated no fiscal impact on their agency.

Officials from the **Missouri Veterans Commission** indicated this initiative petition will have no fiscal impact upon their agency. The definition of the term "employer" in the proposed section 290.600(6) RSMo explicitly excludes the State and its agencies, so the provisions of the petition would not apply to the Commission should it become law.

Officials from the **Missouri Ethics Commission** indicated they defer to the Office of Administration.

Officials from the **St. Louis County Board of Elections** indicated this would have no fiscal impact on their Board.

Officials from the **Board of Election Commissioners City of St. Louis** indicated this proposed measure would have no fiscal impact on their organization.

Officials from the **Children's Trust Fund** indicated no impact for the Office of Administration/Children's Trust Fund.

Officials from the **State Auditor's office** indicated since this proposed initiative petition does not apply to government entities, this would have no fiscal impact on their office.

Officials from the **Missouri Gaming Commission** indicated the proposal will have no fiscal impact on their agency.

Officials from **University of Central Missouri** indicated they have determined there is potential for future fiscal impact but too speculative to estimate impact.

Section 290.603 and beyond starts the portions that will have a fiscal impact. The component that every employee after 30 hours shall be granted paid sick leave is huge when you factor in student workers, temps, adjuncts, etc. Additionally, there is a provision that states that an employee rehired within 9 months of separation shall be entitled to all unused paid sick time that was on their account when they left. This is going to be a huge administrative burden and require, at minimum, the purchase of a time and attendance system that can be programmed to track all of the variations.

Section 290.627 has provisions for civil litigation, charges, and awards for damages for violation of the provisions of this act, which is where the real ambiguous component to fiscal implication and indeterminate concerns are based.

Amy Blouin, President & CEO, Missouri Budget Project provided the following information:

MBP
MISSOURI BUDGET PROJECT

Earned Sick Leave in Missouri: Costs and Savings for Employers

In addition to helping employees by allowing them to address their health needs without losing their jobs or ability to pay their bills, paid sick leave has many benefits for employers, including a healthier workforce, reduced turnover, and increased productivity. The benefits of paid sick leave have been highlighted by the current COVID-19 pandemic, illustrating the importance of workers being able to recover at home without lost wages and without risking spread of contagious disease in the workplace.

Several possible 2022 ballot measures have been filed that would require employers to provide earned sick leave in Missouri. Though the measures vary slightly, each would require employers to provide a minimum of 3-7 days of paid leave to employees, depending on hours worked and size of business. Public employees are exempt in all versions. If implemented, Missouri would join the thirteen states, plus the District of Columbia, (in addition to dozens of municipalities) who ensure employees can earn paid sick leave to care for themselves or family members.[i]

This analysis documents the number of people who may be impacted under Missouri's proposals and how access to paid sick leave reduces employer costs. Similar savings have been documented by research covering a variety of states that have implemented earned sick leave policies.[ii] The table below provides an overview of the estimated costs and savings for employers in Missouri. **We find that expanding earned sick leave to Missouri's nearly 538,000 workers without access would provide a net savings to employers of approximately $17.4 million annually.**

Estimated Costs and Savings to Employers from Earned Sick Leave in Missouri

		Cost/Savings Per Employee		
	Total Annual	**Annual**	**Weekly**	**Hourly**
Costs	$238.05M	$442.61	$8.51	$0.21
Cost for Sick Leave	$230.35M			
Cost for Parental Leave	$7.7M			
Savings	$255.45M	$474.95	$9.13	$0.23
Reduced Turnover	$147.59M			
Reduced Presenteeism	$82.27M			
Reduced Flu Contagion	$25.59M			
Net Savings	$17.4M	$32.34	$0.62	$0.02

Access to Paid Sick Leave in Missouri

Based on an analysis of data from the Missouri Department of Economic Development (MERIC), the U.S. Bureau of Labor Statistics, and the U.S. Census Bureau, we estimate that approximately one in four (or nearly 538,000) Missouri workers would be newly covered by earned sick leave provisions through the ballot measures. These workers are concentrated primarily in service, sales & office, and production, transportation, & material moving related occupations.

Estimated Number of Workers Newly Covered by Paid Sick Leave in Missouri by Occupation

Occupation	Total Employment	Share Exempt	Workers Covered by Initiatives	Share with No Sick Leave	Estimated Workers Newly Covered
Management, Business, Science, and Arts	870,750	27%	636,515	8%	**50,921**
Service	609,500	25%	458,619	41%	**188,034**
Sales and Office	674,870	16%	568,561	23%	**130,769**
Natural Resources, Construction, and Maintenance	224,740	23%	172,541	32%	**55,213**
Production, Transportation, and Material Moving	440,740	9%	403,199	28%	**112,896**
Total	**2,820,600**	**21%**	**2,239,435**	**24%**	**537,833**

Note: Estimated workers covered by paid leave initiatives calculated as the total number of employees by occupation[iii] less the share of that occupation estimated to be exempt (self-employed or local, state, and federal government workers).[iv] Workers newly covered calculated as the total number of workers covered less the share of private workforce that already has access to paid sick leave by occupation.[v]

Cost of Earned Sick Leave to Employers

Employers would be responsible for the wages and associated benefits (such as payroll taxes and insurance) of newly eligible workers who take earned sick leave. Based on average daily wages and benefits in 2019 (see Appendix for detailed calculations), we estimate that Missouri employers would spend approximately $235 million annually on wages & benefits for workers newly eligible for earned sick leave.

Estimated Annual Cost of Earned Sick Leave to Employers

	Wages	Benefits	Total
Cost for Sick Leave	$163,333,388	$67,013,220	**$230,346,608**
Cost for Parental Leave	$5,462,868	$2,241,332	**$7,704,200**
Total	**$168,796,256**	**$69,254,552**	**$238,050,808**

Note: Average cost of earned sick leave calculated as average daily cost of wages & benefits multiplied by the average number of sick days per year[vi] (2.1) taken by workers with access to paid sick leave (or in the case of parental leave an additional 4.9 days per year for a total of 7 days); annual cost per worker is then multiplied by the number of newly covered workers by occupation to determine the annual cost of compensation for workers taking earned sick leave.

Sick Leave. Employees with access to paid leave generally do not use the full amount of paid sick leave to which they are entitled annually. A typical worker with paid sick leave uses 2.1 days of sick leave a year; around 45% of employees with access to paid leave use no sick time at all in a given year.[vii] **Adjusting for average wage by occupation, the cost of wages & benefits for newly eligible employees at 2.1 days per year is $230.3 million dollars annually.**

Parental Leave. We also assume that women who give birth will use the maximum amount of annual earned sick time (or an additional 4.9 days to equal a total of 7 sick days). Each year, 72,127 Missouri women give birth.[viii] Adjusting for employment rate among women in Missouri (56%),[ix] the estimated share of women working who are exempt (21%), and the share already covered by paid sick leave (76%), we estimate that 7,709 Missouri women will use these additional sick days for maternity care annually. **The cost of wages & benefits for newly eligible women who give birth is $7.7 million annually.**

Savings from Earned Sick Leave to Employers

The cost of earned sick leave to employers is offset by significant cost savings derived from benefits such as reduced employee turnover, reduced presenteeism (employees working at reduced capacity while sick or injured), and reduced contagion in the workplace. **We estimate that Missouri employers would save at least $255.4 million annually due to the implementation of earned sick leave policies.**

Estimated Annual Savings from Earned Sick Leave to Employers

	Wages	Benefits	Total
Reduced Turnover	$104,650,035	$42,936,327	**$147,586,363**
Reduced Presenteeism	$58,333,353	$23,933,293	**$82,266,646**
Reduced Flu Contagion	$18,147,602	$7,445,687	**$25,593,288**
Total Savings	**$181,130,990**	**$74,315,307**	**$255,446,297**

Note: Reduced turnover calculated by assuming a reduction in job turnover of 2.5 percentage points for those with new access to paid sick leave[x] at a cost of 20.7% of annual wages.[xi] Reduced presenteeism calculated by assuming workers without access to paid sick leave will work an average of 1.5 days while sick or injured[xii] at 50% effectiveness. Cost of reduced flu contagion calculated based on method presented in Abay, Rosa, & Pana-Cryan Appendix 3 using average estimates.[xiii]

Reduced Turnover. Access to paid sick leave gives workers the ability to address their health needs and those of their families, without having to quit a job or risk being fired. Access to paid sick leave is associated with reduced job turnover, which in turn creates significant savings for businesses.[xiv] **We estimate that Missouri employers will save $147.6 million annually due to reduced turnover in the workplace.**

Reduced Presenteeism. Employers who do not offer paid sick leave have higher rates of "presenteeism" or lost productivity due to employees working while injured or sick.[xv] Offering paid sick leave reduces the likelihood of working at reduced capacity and allows workers to recover from illness or injury more quickly. **We estimate that Missouri employers will save $82.3 million annually due to reduced presenteeism in the workplace.**

Reduced Flu Contagion. Workers without paid sick leave are more likely to come to work sick, increasing the likelihood of spreading the illness to other workers.[xvi] Access to paid sick leave allows workers to stay home when ill, reducing absenteeism related to contagious disease such as influenza. **We estimate that Missouri employers will save $25.6 million annually due to reduced flu contagion in the workplace.**

Appendix

Average Daily Wages & Benefits Used for Cost/Savings Calculations

Occupation	Average Hourly Wage	Average Work Hours/Day	Daily Estimated Average		
			Wage	Benefits	Total Compensation
Management, business, science, and arts	$34.93	7.41	$258.82	$113.11	$371.93
Service	$13.58	7.48	$101.57	$30.99	$132.56
Sales and Office	$18.79	7.20	$135.31	$52.37	$187.68
Natural Resources, Construction, and Maintenance	$24.39	8.11	$197.89	$93.93	$291.83
Production, Transportation, and Material Moving	$18.16	8.23	$149.51	$73.43	$222.94

Note: Average daily wage estimated by occupation using the average hourly wage by occupation[xvii] multiplied by average daily work hours by occupation.[xviii] The annual cost of benefits is calculated using the average cost of benefits as a share of total compensation by occupation.[xix] Total compensation equals the total cost of wages and benefits to employer.

Notes

i. All Missouri Workers Must Have Paid Sick Days to Open the Economy." National Partnership for Women & Families, 2020, www.nationalpartnership.org/our-work/economic-justice/frontline-workers/missouri.html.

ii. See Lovell, V. (2005). Valuing good health: An estimate of costs and savings for the Healthy Families Act. Washington, DC: Institute for Women's Policy Research.; See McKee & Milli (2019). Valuing good health in Massachusetts: The Costs and Benefits of Earned Sick Days. Washington, DC: Institute for Women's Policy Research.

iii. Occupational Employment and Wage Estimates (OES) provided by the Missouri Department of Economic Development/MERIC in cooperation with the U.S. Department of Labor Bureau of Labor Statistics (BLS).

iv. U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates. Table C24060: Occupation By Class Of Worker For The Civilian Employed Population 16 Years And Over.

v. National Compensation Survey: Employee Benefits in the United States, March 2020. U. S. Bureau of Labor Statistics (BLS).

vi. Xia, J., Hayes, J., Gault, B., & Nguyen, H. (2016). Paid sick days access and usage rates vary by race/ethnicity, occupation, and earnings. Institute for Women's Policy Research. February, 17.

vii. Xia, J., Hayes, J., Gault, B., & Nguyen, H. (2016). Paid sick days access and usage rates vary by race/ethnicity, occupation, and earnings. Institute for Women's Policy Research. February, 17.

viii. Martin, J. A., Hamilton, B. E., JK, O. M., & Driscoll, A. K. (2021). Births: Final Data for 2019.

ix. U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates. Table DP03: Selected Economic Characteristics

x. Hill, H. D. (2013). Paid sick leave and job stability. Work and occupations, 40(2), 143-173.

xi. Boushey, H., & Glynn, S. J. (2012). There are significant business costs to replacing employees. Center for American Progress, 16, 1-9.

xii. DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016). Workers without paid sick leave less likely to take time off for illness or injury compared to those with paid sick leave. Health Affairs, 35(3), 520-527.

xiii. Abay Asfaw, D., Rosa, R., & Pana-Cryan, R. (2017). Potential economic benefits of paid sick leave in reducing absenteeism related to the spread of influenza-like illness. Journal of occupational and environmental medicine, 59(9), 822.

xiv. Hill, H. D. (2013). Paid sick leave and job stability. Work and occupations, 40(2), 143-173.

xv. DeRigne, L., Stoddard-Dare, P., & Quinn, L. (2016). Workers without paid sick leave less likely to take time off for illness or injury compared to those with paid sick leave. Health Affairs, 35(3), 520-527.

xvi. Abay Asfaw, D., Rosa, R., & Pana-Cryan, R. (2017). Potential economic benefits of paid sick leave in reducing absenteeism related to the spread of influenza-like illness. Journal of occupational and environmental medicine, 59(9), 822.

xvii. Occupational Employment and Wage Estimates (OES) provided by the Missouri Department of Economic Development/MERIC in cooperation with the U.S. Department of Labor Bureau of Labor Statistics (BLS)

xviii. Bureau of Labor Statistics (BLS) American Time Use Survey – 2019 results.

xix. U.S. Bureau of Labor Statistics Employer Costs for Employee Compensation – December 2020. Table 4: Employer Costs for Employee Compensation for private industry workers by occupational and industry group

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, St. Louis Community College,** the **Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** the **Clay County Board of Election Commissioners,** the **Lieutenant Governor's office,** the **Missouri Joint Municipal Electric Utility Commission,** the **Metropolitan Zoological Park and Museum District,** the **Missouri Municipal League,** the **Missouri Bar Association,** the **Municipal League of Metro St. Louis, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Fiscal Note Summary

State governmental entities estimate no savings, one-time costs ranging from $0 to at least $84,000, and ongoing costs ranging from $0 to $1.2 million per year by 2024. Local governmental entities estimate no costs or savings.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

April 27, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XXX (2022-026)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on April 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollar: sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or he is r

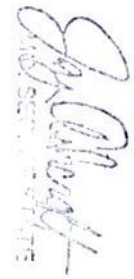
INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District
1					
2					
3					
4					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signe _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HA PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

22-026

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____

_____ Signature of Notary

_____ Address of Notary

Be it resolved by the people of the state of Missouri that the Constitution be amended:

so that it establishes election integrity procedures to (a) prevent attempts to fraudulently influence Missouri's elections, and (b) instill confidence in Missouri voters in the reported results of its elections.

Article XXX,

Sec. 1. Prohibited Election Conduct

(a) No voting machine may be utilized in any election to count or calculate votes. All votes shall be counted by hand by the judgment of the human eye. All counting shall occur by two persons.

(b) Any differences or uncertainties in counting by the two shall only be resolved by an individual approved and appointed in advance of the election by the state legislature.

(c) Mail in ballots shall be prohibited, except when requested by a voter in advance and after showing state-issued photo identification or a state-issued driver's license.

(d) All internet connectivity shall be discontinued at any polling place during the entire time votes are cast and counted. In addition, all persons serving in any capacity at a polling location, except observers, shall from the time of poll closing until the vote has been finally and publicly reported check in their cell phones so the counting occurs without the potential bias of any electronic sources of information of vote totals from other locations.

(e) Local law enforcement officials shall prohibit the delivery of boxes of any kind at a polling place from the time the polls are first open for voting until after all votes have been counted and reported.

Sec. 2. Registration Requirements

All registration to vote shall occur on or before 14 days prior to an election day. Such registration shall require the registering voter to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.

Sec. 3. Election Observer and Reporting Requirements

(a) No early voting shall be permitted more than two weeks before election day. All mail in ballots must be received two days before election day. Otherwise, they shall not be counted. Mail in balloting cannot be permitted to delay the announcement of full election totals within four hours after the poll's closing.

(b) All voters in all elections shall be required to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.

(c) All observers in a polling station shall be located within five feet of any station they desire to observe. Observers inside a polling station shall also be permitted to photograph any or all activities they desire. Private citizens outside a polling station shall be permitted to photograph

any and all activity they desire and shall be free from any liability of any kind for such photographing. All photographing shall be understood to include and allow video-taping and the recording of sound and voice.

(d) All ballots shall be counted only at and reported only from the place where the votes are cast.

(e) Under no condition shall the counting of votes be stopped between the time that a poll has closed and four hours thereafter unless completed.

(f) All votes shall be counted and reported within four hours of the time voting has closed. No votes being reported thereafter shall be valid.

(g) All vote totals shall be reported from all locations on the following basis: (a) by 11:59 p.m. of the night before the election (relating to early voting and mail in ballots); (b) at one hour after the scheduled polling closing time; (c) at two hours after the scheduled polling closing time; (d) at three hours after the scheduled polling closing time; and, finally, (e) at four hours after the scheduled polling closing time.

Sec. 4. Legislative Election Authority

(a) The legislature of the state shall have authority in elections for president and vice president of the United States to adjust or void any vote totals it determines appropriate. It may also ignore any vote totals and exercise its right to appoint electors as specified under the United States Constitution.

(b) Any alleged violation of state election law may be remedied by a complaint filed with the state legislature, who shall promptly according to its own procedures review, receive evidence, and make a final ruling on the same.

Sec. 5. Inspection Rights

All registration material, election-related computer files and data bases, and actual ballots cast shall remain available for inspection by representatives of any state party, the legislature, the courts, and any group of 1,000 or more requesting registered voters, for 120 days after the election.

Sec. 6. Election Crimes

(a) Any person (a) voting twice or more times in a single election, or (b) voting on behalf of a deceased person, or (c) voting using another person's name, or (d) voting who is not a United States citizen shall be guilty of treason against the state.

(b) Election officials denying any right to observers to an election shall be guilty of a Class III felony.

(c) Any person who resets or erases any election files or data bases, or destroys or misplaces any ballots prior to the end of the 120-day inspection period shall be guilty of a Class III felony.

(d) Any polling supervisor who fails to report partial and final results on the schedule shall be guilty of a Class III felony.

(e) Any ballot counter who intentionally, with a lack of good faith, causes ballots to be adjudicated shall be guilty of a Class III felony.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

April 27, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XXIX (2022-025)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on April 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is r

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signe _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HA PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

22-025

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____

_____ Signature of Notary

_____ Address of Notary

Be it resolved by the people of the state of Missouri that the Constitution be amended:

so that it (a) clarifies the Federal Government duty to uphold the rights of Missouri citizens under the U.S. Constitution, including the Bill of Rights and all other provisions, (b) identifies breaches by the Federal Government, and (c) affirms Missouri's right to assess the severity and consequences of such breaches of the US Constitution.

Article XXIX,

Sec. 1. Duty of Federal Government of the United States to Uphold the Bill of Rights and Constitution

(a) The State of Missouri hereby clarifies its admission as a State into the United States of America. Such application by Missouri and admission by the federal government are, in essence, a governmental compact between the two whereby both parties undertake to fulfill their respective duties.

(b) The Supremacy Clause of the Constitution of the United States and application of the doctrine set forth in Marbury v. Madison together are not designed to give the federal government a "blank check" in this governmental compact. Accordingly, the federal government is obligated to uphold its end of the bargain, or else find itself in breach.

(c) Some breaches of federal government duty may be material, and some may be immaterial.

(d) All breaches of the federal government to uphold each of the provisions of the Bill of Rights, including the Tenth Amendment, of the Constitution of the United States is a material breach.

(e) Failure of the federal government to allow states to propose Constitutional amendments under Article V of the Constitution of the United States of America is also a material breach.

(f) The State of Missouri reserves the right to address breaches, both material and immaterial, as it may determine proper, following good faith efforts to reconcile such breaches and allowing the federal government a period in which it can remedy its breach of contract.

Sec 2. Federal Breaches

The following actions by the United States of America constitute breaches of the Constitutional compact it has with the State of Missouri:

(a) The excessive use of executive orders by the President of the United States of America, except in the case of live military conflict, circumventing the representative legislative process;

(b) The excessive and reckless incurrence of debt, except in the case of anticipated or live military conflict;

(c) Failure to effectively protect the borders of the country from unauthorized entry or invasion;

(d) Failure by the Justice Department and Supreme Court of the United States of America to (i) equally enforce the rule of law, (ii) imbue citizens with confidence that the results of national elections are free and fair, and (iii) provide prompt enforcement of criminal laws without endless delays due to investigations often times resulting in no meaningful enforcement action;

(e) Failure by the federal government to protect the right of the State of Missouri under the Tenth Amendment to the Constitution of the United States of America to exercise powers not specifically

given to the federal government, including the power to protect life and protect marriage as Missouri determines best;

(f) Dramatically curtailing freedom of speech of all kinds, in both the public and private arena;

(g) Increasingly curtailing freedom of worship with only the least restrictive means of governmental limitation to serve a compelling governmental interest;

(h) Congress effectively ignoring the right of States to propose amendments to the Constitution of the United States of America under Article V; and,

(i) In the name of protection, creating and deploying espionage tools stripping Americans of their sense of privacy of thought, speech, and action, and use of electronic tools of all kinds.

Sec 3. Significance of such Breaches

The severity of such breaches, and which, if any of them, are immaterial, and the consequences thereof are for the State of Missouri to assess and decide.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

April 27, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Austin Shaffer regarding a proposed constitutional amendment to Article XXVIII (2022-024)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Austin Shaffer on April 27, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollar: sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is r

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signe _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HA PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

22-024

_____ Signature of Affiant (Person obtaining signatures)

_____ Printed Name of Affiant

_____ Street Address of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____

_____ Signature of Notary

_____ Address of Notary

Be it resolved by the people of the state of Missouri that the Constitution be amended:

To include the Bill of Rights as part of the Constitution of the State of Missouri.

Article XXVIII,

Sec. 1, Power of the People

All power of government is created by and comes from the People to the Government.

Sec. 2, Bill of Rights

The State of Missouri hereby guarantees to all its citizens to protect all of the following rights from infringement by any government (collectively known as the Missouri Bill of Rights):

(a) No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

(b) A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.

(c) No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

(d) The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, including all forms of electronic searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

(e) No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

(f) In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

(g) In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

(h) Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(i) The enumeration in the Constitution of Missouri, of certain rights, shall not be construed to deny or disparage others retained by the people.

(j) The powers not delegated to the United States by the Constitution of the United States, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Sec. 3, Involuntary Servitude

Involuntary Servitude is prohibited of any individual by another, and also of the State of Missouri by the Federal Government.

-

Sec 4, Remainder of Constitution

The State of Missouri hereby adopts all the remaining text of the Constitution of the United States of America as a part of its own Constitution, without applicability of any Supreme Court or Federal Court decisions or precedents, to be effective if and only if,

(a) the United States of America collapses, or

(b) Missouri lawfully ceases to be a part of the United States of America.

Upon (a) or (b) happening, prior Federal Court decisions, including those considering state issues, shall be of no further authority in Missouri.

Sec 5, Past Court Decisions and Interpretations

Any holdings in In re Interest of Anaya, 276 Neb. 825 or State v. Noble, 171 Ariz. 171 are hereby rejected; while the holdings in Hendricks v. State,897 N.E.2d 1208 (Ind. Ct. App. 2008) are hereby affirmed. The interpretation of the Missouri Bill of Rights shall be by Missouri courts and fresh and independent of past interpretations of the Bill of Rights contained in the United States Constitution. No contemporaneous, legislative, or administrative construction of the Missouri Bill of Rights is permitted; although reference to the Federalist Papers for interpretive guidance is permitted. All the provisions of the Missouri Bill of Rights are self-executing and shall be so interpreted.

The provisions of this amendment shall be interpreted to supplement other provisions of the Constitution of Missouri, where such provisions can be consistently interpreted, or, if such construction is not possible, then the provisions of this amendment shall supersede such other provisions of the Constitution of Missouri.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

March 23, 2021

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MAR 23 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Mark Pedersen regarding a proposed constitutional amendment to Article XIV (2022-023)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Mark Pedersen on March 23, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-023

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the **8th** day of November, **2022**, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	Date Signed	REGISTERED VOTING ADDRESS (Street, No PO Boxes) (City, Town or Village)	Zip Code	Cong. Dist.	NAME (Print or Typed)
1.					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age, I do ____ do not ____ (check one) expect to be paid for circulating this petition. If paid, list the_ payer _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

Subscribed and sworn to before me, this _____ day of _____, A.D. _____ .

(Seal)

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

_____ Signature of Notary

_____ Address of Notary

_____ My commission expires

Be it resolved by the people of the state of Missouri that the Constitution be amended:

This measure amends Article XIV Section 1 of the Missouri Constitution by deleting all matters within the enclosed brackets and adding all of the underlined matters as required pursuant to Section 116.050 RSMo.

Section 1. [Right to Access medical marijuana.] Missouri Cannabis Restoration and Protection [– 1. Purposes.]

1. Clarification as a substance.

[This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.
This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the limited legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.]

Cannabis shall immediately be removed from the Missouri Revised Statutes list of controlled substances and shall no longer be listed among Missouri's drug schedules. Cannabis shall hence forth be considered a food and not a controlled substance or a drug, by Missouri law, by the passage of this initiative.

[2. Definitions.] **2. Definitions.**

[(1) "Administer" means the direct application of marijuana to a qualifying patient by way of any of the following methods:

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(2) "Department" means the Department of Health and Senior services, or its successor agency.

(3) "Entity" means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) "Marijuana" or "marihuana" means *Cannabis indica, Cannabis sativa, and Cannabis ruderalis,* hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. "marijuana" or "Marihuana" do not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

(6) "Marijuana-infused products" means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(7) "Medical marijuana cultivation facility" means a facility licensed by the department, to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility.

(8) "Medical marijuana dispensary facility" means a facility licensed by the department, to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, or a medical marijuana-infused products manufacturing facility.

(9) "Medical marijuana-infused products manufacturing facility" means a facility licensed by the department, to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to another medical marijuana-infused products manufacturing facility.

(10) "Medical marijuana testing facility" means a facility certified by the department, to acquire, test, certify, and transport marijuana.

(11) "Medical use" means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(12) "Physician" means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(13) "Physician certification" means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician's professional opinion, the patient suffers from a qualifying medical condition.

(14) "Primary caregiver" means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver's application for an identification card under this section or in other written notification to the department.

(15) "Qualifying medical condition" means the condition of, symptoms related to, or side-effects from the treatment of:

(a) Cancer;

(b) Epilepsy;

(c) Glaucoma;

(d) Intractable migraines unresponsive to other treatment;

(e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;

(f) Debilitating psychiatric disorders, including, but not limited to, post-traumatic stress disorder, if diagnosed by a state licensed psychiatrist;

(g) Human immunodeficiency virus or acquired immune deficiency syndrome;

(h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;

(i) Any terminal illness; or

(j) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(16) "Qualifying patient" means a Missouri resident diagnosed with at least one qualifying medical condition.]

(a) "Controlled Substance List", or "CSL" refers to Missouri's list of controlled substances as pertains to Missouri Statutes.
(b) "Cannabis" and "Cannabis hemp" refer to Cannabis, marihuana, marijuana, Cannabis sativa, Cannabis sativa L., Cannabis Americana, Cannabis Gigantea, Cannabis indica, Cannabis ruderalis, or any variety of Cannabis, including any derivative, concentrate, extract, flower, leaf, particle, preparation, resin, root, salt, seed, stalk, stem, or any product thereof.
(c) "Medical Cannabis" refers to Cannabis used to prevent or to treat a medical condition.
(d) "Personal use" refers to the personal use or consumption of Cannabis.
(e) "Cannabis accessories" means any equipment, products, or materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, or containing Cannabis, or for ingesting, inhaling, vaporizing, smoking or otherwise introducing Cannabis into and/or onto the human body.
(f) "Establishment" refers to a cultivation facility, a testing facility, a product manufacturing facility, or a retail store, or other entity that cultivates, prepares, manufactures, packages, transports or sells food products and/or accessories.

[3. Creating Patient Access to Medical Marijuana.] **3. Personal and Commercial.**

[(1) In carrying out the implementation of this section, the department shall have the authority to:

(a) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

(b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and for the enforcement of this section so long as patient access is not restricted unreasonably and such rules are reasonably necessary for patient safety or to restrict access to only licensees and qualifying patients.

(c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(d) Require a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a qualifying patient or primary caregiver to ensure that no medical marijuana grown by a medical marijuana cultivation facility or manufactured by a medical marijuana-infused products manufacturing facility is sold or otherwise transferred except by a medical marijuana dispensary facility. The department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees.

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities which demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another entity with a transportation certification. The department shall develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation of marijuana. Any entity licensed or certified pursuant to this section shall be allowed to transport cannabis.

(f) The department may charge a fee not to exceed $5,000 for any certification issued pursuant to this section.

(g) Prepare and transmit annually a publicly available report accounting to the Governor for the efficient discharge of all responsibilities assigned to the department under this section;

(h) Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section, which scoring shall be limited to an analysis of the following:

(i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers;

(ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income qualifying patients;

(iii) site security;

(iv) experience in a legal cannabis market;

(v) in the case of medical marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience;

(vi) the potential for positive economic impact in the site community;

(vii) in the case of medical marijuana cultivation facilities, capacity or experience with agriculture, horticulture, and health care;

(viii) in the case of medical marijuana dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;

(ix) in the case of medical marijuana-infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and

(x) maintaining competitiveness in the marijuana for medical use marketplace.

In ranking applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise regarding these factors. The department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by qualifying patients.

(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

(a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;

(b) Specifications of duties of officers and employees of the department;

(c) Instructions or guidance for local authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

(e) Creation of a range of administrative penalties for use by the department;

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the medical marijuana dispensary facility, product display and examination by the qualifying patient and/or primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed or certified pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, shall forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530;

(i) Security requirements for any premises licensed or certified pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;

(j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;

(k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;

(l) The specification of acceptable forms of picture identification that a medical marijuana dispensary facility may accept when verifying a sale;

(m) Labeling and packaging standards;

(n) Records to be kept by licensees and the required availability of the records;

(o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(p) The reporting and transmittal of tax payments;

(q) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and requiring licensees to test medical marijuana using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. The department shall not require any medical marijuana or medical marijuana-infused products to be tested more than once prior to sale.

(4) The department shall issue rules or emergency rules to provide for the certification of and standards for medical marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as medical marijuana testing facilities. No medical marijuana testing facility shall be owned by an entity under substantially common control, ownership, or management as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

(5) The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this section, including verifying that a person who presented a patient identification card to a state or local law enforcement official is lawfully in possession of such card.

(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

(7) Within one hundred eighty days of December 6, 2018, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within two hundred ten days of December 6, 2018, the department shall begin accepting applications for such identification cards.

(8) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a non-refundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of December 6, 2018, and shall charge each applicant a non-refundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana cultivation facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(9) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a non-refundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018 and shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or

thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five medical marijuana dispensary facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a non-refundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018 and shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana-infused products manufacturing facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(11) Any applicant for a license authorized by this section may pre-file their application fee with the department beginning 30 days after December 6, 2018.

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to six flowering marijuana plants for the exclusive use of that qualifying patient. The card shall be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of one hundred dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(13) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty day period, provided that limit is not less than four ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the department.

(14) The department may set a limit on the amount of marijuana that may be possessed by or on behalf of each qualifying patient, provided that limit is not less than a sixty day supply of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate legal limit for each qualifying patient under their care and a separate legal limit for themselves if they are a qualifying patient.
qualifying patients cultivating marijuana for medical use may possess up to a ninety day supply, so long as the supply remains on property under their control. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons for additional amounts. Possession of between the legal limit and up to twice the legal limit shall subject the possessor to department sanctions, including an administrative penalty and loss of their patient identification card for up to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable by imprisonment of up to one year and a fine of up to two thousand dollars.

(15) The department may restrict the aggregate number of licenses granted for medical marijuana cultivation facilities, provided, however, that the number may not be limited to fewer than one license per every one hundred thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department may restrict the aggregate number of licenses granted for marijuana-infused products manufacturing facilities, provided, however, that the number may not be limited to fewer than one license per every seventy thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department may restrict the aggregate number of licenses granted for medical marijuana dispensary facilities, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States Congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018. Future changes to the boundaries of or the number of congressional districts shall have no impact.

(18) The department shall begin accepting license and certification applications for medical marijuana dispensary facilities, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after December 6, 2018. Applications for licenses and certifications under this section shall be approved or denied by the department no later than one hundred fifty days after their submission. If the department fails to carry out its non-discretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(19) Qualifying patients under this section shall obtain and annually renew an identification card or cards from the department. The department shall charge a fee of twenty-five dollars per year per card with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor or its successor agency. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the department fails to deny and fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their qualifying patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(20) Primary caregivers under this section shall obtain and annually renew an identification card from the department. The department shall charge a fee of twenty five dollars per year, with such fee to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. Upon receiving an application for a primary caregiver identification card the department shall, within thirty days, either issue the card or provide a written explanation for its denial.

(21) All marijuana for medical use sold in Missouri shall be cultivated in a licensed medical marijuana cultivation facility located in Missouri.

(22) All marijuana-infused products for medical use sold in the state of Missouri shall be manufactured in a medical marijuana-infused products manufacturing facility.

(23) The denial of a license, license renewal, or identification card by the department shall be appealable to the administrative hearing commission, or its successor entity. Following the exhaustion of administrative review, denial of a license, license renewal, or identification card by the department shall be subject to judicial review as provided by law.

(24) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(25) The department shall not have the authority to apply or enforce any rule or regulation that would impose an undue burden on any one or more licensees or certificate holders, any qualifying patients, or act to undermine the purposes of this section.]

The following acts are not unlawful and shall not be an offense under Missouri law:
(a) Possession and/or consumption of Cannabis for personal or medical use.
(b) Cultivating Cannabis for personal or medical use.
(c) Cultivation, harvesting, processing, manufacturing, packaging, distributing, transferring, displaying or possessing Cannabis, Cannabis accessories, and Cannabis products for commercial purposes, provided the person has current applicable licensing to operate a commercial establishment. No special licensing will be required beyond that which is applicable for the cultivating, harvesting, processing, manufacturing, packaging, distribution, transferal, display or possession of any non-toxic food or food product.
(d) Providing Cannabis, Cannabis accessories, and Cannabis products for sale to consumers.
(e) Leasing or otherwise allowing the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with paragraphs (a) through (d) of this subsection.
(f) No one shall be denied housing solely based on their use of Cannabis.
(g) No one shall be denied employment solely based on their use of Cannabis.
(h) The use and/or possession of Cannabis shall in no way impede one's legal right to possess a firearm.

[4. Taxation and Reporting.] **4. Medical.**

[(1) A tax is levied upon the retail sale of marijuana for medical use sold at medical marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and paid to the department of revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri veterans' health and care fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.

(2) There is hereby created in the state treasury the "Missouri veterans' Health and Care Fund," which shall consist of taxes and fees collected under this section. The State Treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:

(a) First, to the department, an amount necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section:

(b) Next, the remainder of such funds shall be transferred to the Missouri veterans commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri service officer's Program, and other services for veterans approved by the commission, including, but not limited to, health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri veterans commission shall contract with other public agencies for the delivery of services beyond its expertise.

(c) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the Department of Revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from, and in addition to, any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

(6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.]

Medical Cannabis shall be available to patients without taxation who have a physician's recommendation for its use.
(a) All patients engaged in Cannabis therapy shall be afforded the same rights and privileges afforded to any patient treated through conventional therapeutic means, whether or not under the care of a physician.
(b) Licensed physicians shall not be penalized for, nor restricted from recommending and/or providing Cannabis for medical purposes to any person under their care.
(c) Veterinarians shall not be penalized nor restricted from recommending and/or providing Cannabis for medical purposes for any creature under their care.
(d) Any individual who is a Cannabis patient in another state shall be granted the same rights and privileges as a legal Missouri Cannabis patient.
(e) Medical care, including organ transplants, shall not be restricted in any way based on a person's use of Cannabis.

[5. Additional Patient, Physician, Caregiver and Provider Protections.] **5. Zoning.**

[(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the department, and transportation of marijuana from a medical marijuana dispensary facility to the qualifying patient's residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card: a valid qualifying patient cultivation identification card; a valid physician certification while making application for an identification card: or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri State Board of Registration for the Healing Arts, or its successor agency, for owning, operating, investing in, being employed by, or contracting with any entity

investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A medical marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by non-emancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation of up to six flowering marijuana plants per patient in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.]

Cannabis farmers, manufacturers, processors, and distributors shall not be subject to any special zoning requirement, licensing fee that is excessive, discriminatory, prohibitive, or in any way contrary to that which is relative to any other commercial or agricultural farmer, manufacturer, processor or distributor.

[6. Legislation.] **6. Law Enforcement and the Courts.**

[Nothing in this section shall limit the General Assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section.]

Missouri's law enforcement and its courts shall protect Cannabis users and their property without discrimination, and with the same effort afforded to every citizen of Missouri and our nation.
(a) The use and/or possession of Cannabis shall not be grounds for issuing a "Driving under the influence" (DUI) stop, charge, arrest or fine(s) when operating or a passenger of a motor vehicle. Stops, charges, fines and arrests shall be the product of visible and/or previously proven non-Cannabis infractions of Missouri law; actual crime, not assumed or coerced.
(b) No Missouri law enforcement personnel or state funds shall be used to assist or aid in the enforcement of federal Cannabis laws involving acts which are no longer illegal in the State of Missouri under this amendment.
(c) Asset or Civil Forfeiture shall no longer be used in the state of Missouri through association with Cannabis, Cannabis cultivation, it's use and/or possession, in any way.
(d) Upon the passage of this Act, all persons incarcerated or under supervision of the Missouri Board of Probation and Parole for non-violent, Cannabis-only offenses, which are no longer illegal in the State of Missouri under this Act, shall be immediately released.
(e) Within 60 days of the passage of this Act, a legal document shall be developed and made available to the public ordering the immediate destruction of all Cannabis-related non-violent civil and criminal records in Missouri and for any offense covered by this amendment which is no longer illegal in the State of Missouri under this Act. This document shall be distributed to all pertinent parties throughout the state.
(f) Within 60 days, Missouri's Courts shall order the immediate expungement of civil and criminal records pertaining to all non-violent Cannabis only offenses which are no longer illegal in the State of Missouri under this Act.

[7. Additional Provisions.] **7. Regarding Federal Law.**

[(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or entity with a transportation certification shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a non-violent crime for which he or she was not incarcerated and that is more than five years old; or

(c) More than five years have passed since the person was released from parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The department may consult with and rely on the records, advice and recommendations of the Attorney General and the Department of Public Safety, or their successor entities, in applying this subdivision.

(3) All medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility licenses, entities with medical marijuana testing facility certifications, and entities with transportation certifications shall be held by entities that are majority owned by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake in such entities.

(4) No medical marijuana cultivation facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall manufacture, package or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction, up to and including loss of license.

(5) All edible marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with dosage amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, in a font size at least as large as the largest other font size used on the package, as containing "Marijuana," or a " Marijuana-Infused Product." Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty.

(6) No individual shall serve as the primary caregiver for more than three qualifying patients.

(7) No qualifying patient shall consume marijuana for medical use in a public place, unless provided by law. Violation of this prohibition shall subject the violator to sanctions as provided by general law.

(8) No person shall extract resins from marijuana using dangerous materials or combustible gases without a medical marijuana-infused products manufacturing facility license. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and, if applicable, loss of their identification card, certificate, or license for up to one year.

(9) All qualifying patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. Two qualifying patients, who both hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.

(10) No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

(11) Unless allowed by the local government, no new medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality.

(12) Unless superseded by federal law or an amendment to this Constitution, a physician shall not certify a qualifying condition for a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic, or in another commonly used format. A qualifying patient must obtain a new physician certification at least annually.

(13) A physician shall not issue a certification for the medical use of marijuana for a non-emancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a non-emancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. Such card shall be issued to one of the parents or guardians and not directly to the patient. Only a parent or guardian may serve as a primary caregiver for a non-emancipated qualifying patient under the age of eighteen. Only the qualifying patient's parent or guardian shall purchase or possess medical marijuana for a non-emancipated qualifying patient under the age of eighteen. A parent or guardian shall supervise the administration of medical marijuana to a non-emancipated qualifying patient under the age of eighteen.

(14) Nothing in this section shall be construed as mandating health insurance coverage of medical marijuana for qualifying patient use.

(15) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for medical use or for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.]

Pursuant to the Ninth and Tenth Amendments to the Constitution of the United States, the people of Missouri hereby repudiate and challenge federal Cannabis prohibitions that conflict with this Act.

[8. Severability.] **8. Existing Local, State and Federal Law.**

[The provisions of this section are severable, and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by any court of competent jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.]

All provisions of this section shall supersede conflicting city, county, state or federal statutory, local charter, ordinance, or resolution.

[9. Effective Date.] **9. Implementation.**

[The provisions of this section shall become effective on December 6, 2018.]

The dictates of this Initiative, unless otherwise indicated by this initiative, shall be implemented no later than **January 31st, 2023**.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-023)

Subject

Initiative petition from Mark Pedersen regarding a proposed constitutional amendment to Article XIV of the Constitution of Missouri. (Received March 23, 2021)

Date

April 12, 2021

Description

This proposal would amend Article XIV of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University, Missouri Veterans**

Commission, Missouri Office of Prosecution Services, the **Kansas City Board of Police Commissioners,** and the **Metropolitan Police Department - City of St. Louis.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no anticipated impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated:

Section 1, Article XIV, Constitution of Missouri

Initiative Petition 22-023 places on the ballot in November 2022 a proposed amendment to the Constitution that repeals Section 1, Article XIV, Constitution of Missouri relating to medical marijuana for patients with serious illnesses and medical conditions and replaces it with legalized cannabis for personal or medical use. The law is to be implemented no later than January 31, 2023.

It is assumed, as a result of the repeal of the medical marijuana program, a portion of the five (5) months of expenses may be avoided in fiscal year (FY) 2023. The Department of Health and Senior Services (DHSS), Division of Regulation and Licensure (DRL) will require FTE past the January 31, 2023 effective date to complete the discontinuation of the program and handle pending issues including processing refunds. Any remaining balance in the Veterans Health and Care Fund (0606), once all items are closed, will be transferred to the Missouri Veterans Commission. This will result in a $0 balance in the Missouri Veterans Health and Care Fund.

Their department is not able to estimate the impact the repeal of this section would have on revenues in FY2023. DHSS, DRL does estimate that patients and caregivers will not continue to apply/pay at the same rate as the current program is receiving. DHSS, DRL also estimates a decrease in collections from cultivators, dispensaries, manufacturing facilities, and testing facilities. The repeal eliminates any sales tax charged on medical

cannabis, which would also be a decrease in revenue collected. Any remaining balance in the fund, once all items are closed, will be transferred to the Missouri Veterans Commission. This will result in a $0 balance in the Missouri Veterans Health and Care Fund.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have minimal cost to their department's Division of Professional Registration, which can be absorbed.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated a fiscal impact of costs savings of $491,964 in fiscal year 2023, $1,394,549 in fiscal year 2024, $2,157,069 in fiscal year 2027.

The estimate of the number of offenders who will be impacted by the legalization of marijuana can be calculated from the sentencing records maintained by their department, but with an important qualification. Most offenders sentenced for drug offenses in Missouri are sentenced for the production, sale, distribution or possession of a controlled substance, but the drug type is not always part of the sentence information that their department receives. In some cases, the drug type is known and is included in the offender management database, but the proportion of cases in which the drug related to the offense is known is a minority of the cases. Given that the drug associated with the offense is unknown by the department in the majority of cases, the estimation of the total impact that follows will use the proportions of cases in which the associated drug is known to determine the number of cases in which the associated drug is unknown that are likely related to marijuana. Therefore, they assume 3% of all prison admissions related to drug sentences are related to marijuana (see table 1).

Table 1. FY 2017 through FY 2020 admissions to prison on only drug-related sentences in which the drug associated with the offense is known. (Drug offenses and drug types are identified in the data system through the use of the National Crime Information Center (NCIC) categories, modifiers associated with a sentence, and the description of the offense.)

Marijuana	70	3.3%
Other Drug	2,072	96.7%
Total	2,142	100.0%

There were 922 offenders with new commitments to prison in FY 2020 who were admitted only on drug sentences. The average length of those sentences was 5.6 years. Based on

their assumption that 3% of those sentences are related to marijuana, they estimate 28 admissions for offenses related only to marijuana.

In FY 2020, there were 1,263 offenders released from prison who had been incarcerated for new commitments to prison only on drug sentences. Their average length of time served to first release was 1.1 years, which is what they assume for all new commitments in FY 2021 in estimating their impact.

Based on their analysis of new probation cases related to drug sentences received by the department in FY 2020, approximately 7% of the cases in which the associated drug is known are related to marijuana (see table 2). Therefore, they assume 7% of all new probation cases are based on drug sentences related to marijuana.

Table 2. FY 2020 probation cases related only to drug sentences in which the drug associated with the offense is known. (Drug offenses and drug types are identified in the data system through the use of the NCIC categories, modifiers associated with a sentence, and the description of the offense.)

Marijuana	209	7.0%
Other Drug	2,766	93.0%
Total	2,975	100.0%

There were 5,138 offenders with new probation cases in FY 2020 whose cases were only on drug sentences. Based on their assumption that 7% of those sentences are related to marijuana, they estimate 360 new probations for sentences of people for offenses related only to marijuana. The average length of those sentences was 5.4 years. Given the possibility of earned compliance credit, they apply a 3 year sentence in their estimation of impact.

The estimated maximum cumulative impact of this proposal on department operations is 73 fewer people in prison and 1,164 fewer people under supervision in the field by FY 2027.

Change in prison admissions and probation openings with legislation

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	0	28	28	28	28	28	28	28	28	28
After Legislation	0	0	0	0	0	0	0	0	0	0
Probation										
Current Law	0	360	360	360	360	360	360	360	360	360
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	0	-28	-28	-28	-28	-28	-28	-28	-28	-28
Probations	0	-360	-360	-360	-360	-360	-360	-360	-360	-360
Cumulative Populations										
Prison		-28	-56	-73	-73	-73	-73	-73	-73	-73
Parole				-11	-39	-67	-84	-84	-84	-84
Probation		-360	-720	-1080	-1080	-1080	-1080	-1080	-1080	-1080
Impact										
Prison Population		-28	-56	-73	-73	-73	-73	-73	-73	-73
Field Population		-360	-720	-1,091	-1,119	-1,147	-1,164	-1,164	-1,164	-1,164
Population Change		**-388**	**-776**	**-1164**	**-1192**	**-1220**	**-1237**	**-1237**	**-1237**	**-1237**

	# to/from Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)		Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 1 (7 months)	-28	($7,756)	$126,681		(7)	$365,283	$491,964	(360)
Year 2 (includes 2% inflation)	-56	($7,756)	$443,023		(14)	$951,526	$1,394,549	(720)
Year 3 (includes 2% inflation)	-73	($7,756)	$589,062		(21)	$1,442,699	$2,031,761	(1,091)
Year 4 (includes 2% inflation)	-73	($7,756)	$600,843		(21)	$1,458,266	$2,059,109	(1,119)

Year 5 (includes 2% inflation)	-73	($7,756)	$612,860		(22)	$1,544,209	$2,157,069	(1,147)
Year 6 (includes 2% inflation)	-73	($7,756)	$625,117		(22)	$1,560,908	$2,186,025	(1,164)
Year 7 (includes 2% inflation)	-73	($7,756)	$637,620		(22)	$1,577,833	$2,215,453	(1,164)
Year 8 (includes 2% inflation)	-73	($7,756)	$650,372		(22)	$1,594,929	$2,245,301	(1,164)
Year 9 (includes 2% inflation)	-73	($7,756)	$663,379		(22)	$1,612,254	$2,275,634	(1,164)
Year 10 (includes 2% inflation)	-73	($7,756)	$676,647		(22)	$1,629,754	$2,306,401	(1,164)

Officials from the **Department of Labor and Industrial Relations** indicated the initiative petition seeks to amend Missouri Constitution Amendment XIV. This proposal would affect the Missouri Department of Health and Senior Services, the Missouri Department of Public Safety, the Missouri Department of Corrections, and the Missouri Department of Commerce and Insurance.

In Missouri, courts will generally not find a cause of action where one is not specifically stated in a statute. However, there are exceptions, especially if no other remedy (such as state or local government enforcement) is provided. Since the legislation prohibits employment discrimination against any person based solely on their use of cannabis, yet does not authorize any government agency to carry out enforcement of the provision, it is possible that a court would view section 285.045 as creating a private cause of action. If so, aggrieved parties might bring a lawsuit in circuit court. Costs are difficult to estimate, but are potentially substantial.

See *Vilcek v. Uber USA, LLC*, 902 F.3d 815 (2018); *American Eagle Waste Industries, LLC v. St. Louis County*, 379 S.W.3d 813 (2012); *Johnson v. Kraft General Foods, Inc.*, 885 S.W.2d 334 (1994); *Byrne & Jones Enterprises, Inc. v. Monroe City R-1 School District*, 493 S.W.3d 847 (2016).

Note that the concept of official immunity protects public officials from liability if those officials act within the course of their official duties and without malice. *Alsup v. Kanatzar*, 588 S.W.3d 187, 190 (Mo. banc 2019). However, official immunity does not apply to situations where public officers fail to perform a ministerial duty required of them by law. In such situations, the public officials may be personally liable for the damages caused. *Id.* at 191.

This would likely have a significant impact on Missouri employers and insurers. Employers would need to make revisions to work policies if cannabis is no longer classified as a drug. Cannabis could still be treated as a mind-altering substance, but revisions to the policies would be necessary. The law is unclear, but since employment denial is outlawed under this provision, it would be reasonable to assume that employment discipline would also be outlawed under this provision.

With greater use of a mind-altering substance, it is likely that more injuries would result at work. This could ultimately drive up Workers' Compensation insurance costs. This would be a cost to private employers, rather than to the department, but nonetheless should be included.

Medical marijuana sales currently occur in the State of Missouri. While this petition appears to further loosen restrictions on medical marijuana commerce, revenue impact at this time remains unknown.

This initiative petition would prohibit employment discrimination against any person based solely on their use of cannabis. We think this would have an impact on all employers, including DOLIR. The language does not include a penalty, but there would likely be a cause of action based on the right created.

Officials from the **Department of Revenue** indicated:

Marijuana businesses may have to charge different sales tax for different products.

Revenue Impact

Currently in Missouri marijuana can be purchased for medical use only. Medical marijuana is taxed at a 4% rate for veterans, it is subject to the state sales tax rate of 4.225% and if there is a local sales tax that is collected. The current amount collected from the veterans 4% tax is $599,092.

This constitutional amendment first makes marijuana legal for recreational use. It states that it is not considered a controlled substance but shall be considered a food. This

amendment also removes the 4% veteran's tax that is on medical marijuana. It also states that medical marijuana will no longer be taxable.

Making marijuana legal for recreational use creates a new product to be sold in Missouri. All products sold in Missouri are subject to sales and use tax unless specifically exempt. The State sales and use tax rate is 4.225%.

Based on a study completed by Gallup, 12 percent of the nation's adults smoke marijuana regularly. Based on information published on suburbanstats.org, there are approximately 4,181,284 individuals at age 21 or above in the State of Missouri, 12% of the total number of adults aged 21 or older would equal 501,754 adults.

A report published by Headset Inc, a new market insights from Seattle-based cannabis intelligence company, believes that the average cannabis consumer spends roughly $647 on marijuana and related products per year. Based on information provided in the report published by Headset Inc, the largest pool of individuals surveyed spent $1,000 or above each year on marijuana and marijuana products. These amount of $647 and $1000 will allow us to estimate a fiscal impact range.

The Department notes that sales tax is added to the purchase prices. Therefore at the low rate of $647 we assume total taxable sales of $324,634,838 ($647 * 501,754). Therefore at the low end we estimate the 4.225% collected sales tax would be $13,715,822 ($324,634,838 * 4.225%).

At the upper rate of $1,000 we assume a total taxable sales of $501,754,000 ($1,000 * 501,754). Therefore at the upper end we estimate the 4.225% collected sales tax would be $21,199,107 ($501,754,000 * 4.225%).

This would result in an increase of revenue to the following funds.

	Low Estimate	High Estimate
General Revenue	$9,739,045	$15,052,620
School District Trust Fund	$3,246,348	$5,017,540
Conservation Commission	$405,794	$627,193
Park, Soil & Water Fund	$324,635	$501,754
Local Governments	$4,496,193	$6,949,293

The Department, for local political subdivisions, assumes a rate of 1.385% based on historical records. It should be noted that all jurisdictions do not collect a sales tax and it is unclear if additional local political subdivisions will implement one.

It should be noted that this proposal states that cannabis shall hence forth be considered a food. Per statutes food is assessed a sales tax rate of 1.225% instead of the 4.225%. The 3% portion that goes to general revenue is not collected on food. However, the current statute that allows for the lower sales tax on food defines food as a product in which Federal Food Stamps can be redeemed. Therefore cannabis does not qualify for the reduced sales tax rate and will be assessed at the 4.225%.

This proposal eliminates the 4% veteran's tax that is currently charged on medical marijuana. This would result in a loss to the Missouri Veterans' Health and Care Fund of at least $599,092 annually.

This proposal eliminates the 4.225% sales tax on medical marijuana. This would result in a loss of the revenue to the state. At the time of the fiscal note, the medical marijuana laws have not been in place for at least a year. Therefore, any loss of revenue from the medical marijuana provisions really is still unknown. It is assumed that any loss from the medical marijuana sales tax provision will be greatly outweighed by the increase in revenue from recreational marijuana.

Officials from the **Department of Public Safety - Office of Director** indicated this language has no impact for their office. The impact on the Missouri State Highway Patrol is as follows:

Missouri State Highway Patrol - Impact and Concerns

Currently there are approximately 66,653 records in the Traffic Arrest System (TAS) pertaining to arrests completed by the Missouri State Highway Patrol that could possibly meet the requirements of this proposed constitutional amendment. (These are arrest records with or without a court conviction with an NCIC modifier of 60-64 that relate to marijuana offenses.) However, due to the uncertain nature of this proposal to amend Missouri's Constitution, the Patrol Records Division (PRD) has no true way to determine the actual impact associated with such a proposal. If PRD is required to simply complete a mass expungement of all 66,653 records without processing individual court orders, then this could probably be completed by the Criminal Justice Information Services Division (CJIS) programming the TAS. However, if PRD is required to process 66,653 court orders for this endeavor, then the division will require a minimum of 214 employees to process the court orders within a 30-day time frame.

1 full-time employee (FTE) = 1,864 hours (average work hours per year) x 60 minutes per hour = 111,840 minutes per year.

30 minutes = estimate of the amount of time per petition to log, process, research, review, and expunge the information/record when the order is received.

1 FTE can process 3,728 expungements per year = 111,840 / 30.

3,728 expungements per year / 12 months per year = 311 expungements per month.

66,653 / 311 = 214 temporary employees to complete 100% of the expungements within 30 days of the aforementioned court ordered immediate record expungements.

The Patrol assumes these temporary employees would be paid at least $10 an hour, which would be approximately $400,000 per month including the fringe benefit rate for a temporary employee. With 30 days of training and then 30 days of processing expungements, it would be a total of two months, for a total cost of approximately $800,000.

It would be a tremendous challenge to hire 214 temporary employees, knowing they would only be employed for 30 days after training.

The fiscal impact would also include the cost associated with replacing all the Patrol's canines. The Patrol's canines are currently trained using cannabis/marijuana as one of four drugs they are to alert to. This would mean our current canines would have to be retired. The purchase and initial training for a canine is approximately $22,000. The overall cost to purchase and train the current canine program would be approximately $176,000 ($22,000 X 8). The time to train all eight canines could take up to three years. Not only will there be a financial impact to the Patrol, there will also be an impact to the services provided to other law enforcement agencies until the unit reaches full capacity.

In addition to the fiscal impact, the following are the Patrol's concerns based on what other states have reported:

In 2009, Colorado traffic fatalities involving drivers testing positive for marijuana represented 9% of the total traffic fatalities. Recreational marijuana use was legalized in 2012. By 2016, that number more than doubled to 21%**.**

Marijuana-related traffic deaths increased 66% in the four-year average (2013-2016) since Colorado legalized recreational marijuana compared to the four-year average (2009-2012) prior to legalization.

Marijuana-related deaths when a driver tested positive for marijuana more than doubled from 55 deaths in 2013 to 125 deaths in 2016.

The yearly number of marijuana related hospitalizations increased 72% after the legalization of marijuana, (2009-2012) vs. (2013-2016).

Colorado's youth for 2014/2015 marijuana use was 55% higher than the national average.

The average THC levels in marijuana has increased significantly over the years: 1969-0.8%, 1995-4%, 2013-13%, 2017-20+%, Oil, 1995-13%, 2013-52%, highest plant 38%, highest oil 95%+.

Medical marijuana has been legal in the state of Colorado since 2000. On November 12, 2012, the state of Colorado passed Amendment 64, which legalized private use of

marijuana. Per the Colorado State Patrol's driving under the influence statistics, marijuana DUI citations increased 25.5% from 2014 to 2018 and marijuana and alcohol citations increased 112% in the same time range. As marijuana becomes legalized, its use increases.

The three years after Colorado legalized marijuana for recreational use (2013-2015), its use increased in youth ages 12-17, by 12%, in young adults aged 18-25 by 16%, and adults 26 and older by 71%. By removing the recommended acceptable ages of use, zoning regulations, packaging, and advertising of cannabis/marijuana, the risk of use and abuse of marijuana by the youth of Missouri is substantially increased. This category of Missourians, who recent studies have shown significant long-term cognitive impairment when marijuana is ingested during the developmental years, would be affected.

In Missouri, medical marijuana was legalized by Amendment 2 and took effect December 2018. As of June 10, 2019, 12 states have legalized recreational marijuana and 29 states have legalized medical marijuana. In a 2013-2014 National Highway Traffic Safety Administration (NHTSA) roadside survey, 20% of the nighttime and weekend drivers tested positive for drugs. Interestingly, the number of daytime drugged drivers was approximately the same amount as night and weekend drugged drivers. A roadside study in Colorado and Washington, the first two states to legalize marijuana for recreational use, showed the primary increase of marijuana users happened to their daytime drivers. The percent of drivers that tested positive for marijuana during the day went from 8%, before recreational marijuana sales, to 23%, 6-12 months after marijuana was legalized. There was a 48% increase in weekend nighttime drivers testing positive for THC or 11-OH-THC (an active metabolite of THC) from 2007 to 2014.

Montana legalized medical marijuana in 2004 and from 2007-2010, the presence of marijuana in DUI suspects increased over 100%. Also, the number of DUI suspects who tested positive for alcohol and marijuana increased by over 180%.

This has Department of Health and Senior Services (DHSS) being the agency that enforces it. The concern is that DHSS has no police powers which would inhibit enforcement efforts.

This initiative petition will remove cannabis/marijuana from Missouri Revised Statutes, creating conflict with both several Federal and State laws, such as the use or possession of a firearm, and could conflict and violate federal law. This initiative petition does not support the Gun Control Act (GCA), codified at 18 U.S.C. § 922.

This proposed language in Section 6(f) only applies to Missouri's courts since the central repository is not noted in the petition, therefore, there would be no CJIS impact. However, if the language was modified to include the central repository there would be a technical impact on CJIS to remove any offenses identified in the proposal including FBI records.

As the Patrol has officers assigned to federal task forces that may be involved in a federal drug operation, there are concerns over potential civil litigation resulting from these types of operations, as marijuana is still classified as a Schedule I controlled substance, and illegal under federal law.

The Patrol operates in accordance with the Drug-Free Workplace Act of 1988, which requires a drug testing program. This program tests potential employees as well as random testing for incumbent employees in enforcement, and drug sensitive areas. The initiative petition creates a conflict with federal law with regard to marijuana and current employment standards. This can be seen in Section 3, (g) "No one shall be denied employment solely based on their use of Cannabis", and Section 4, (a), "All patients engaged in Cannabis therapy shall be afforded the same rights and privileges afforded to any patient treated through conventional therapeutic means, whether or not under the care of a physician", as well as concerns with any state and federal grant requirements for drug free workplace.

Another concern is the inability to properly train officers as laws have not yet been established. Further training is currently needed on medical marijuana laws, and more training will need to be established if this passes. Once recreational use passes, other intoxicating/impairing substances may be targeted for legalization/decriminalization as they have in many other states. One example is Oregon which has decriminalized psilocybin, cocaine, heroin, oxycodone, methamphetamine, and other drugs.

If passed, this petition will conflict with federal cannabis/marijuana laws and could cause significant conflict with several Federal and State laws, such as the use or possession of a firearm. Cannabis/marijuana causes impairment and is not a suitable drug to be used in various safety sensitive positions in the workforce, therefore strong language protecting employers is suggested. The workforce which could be affected would include any position where safety is a must, such as operating a motor vehicle, operating heavy machinery, and all aspects of public safety.

There is no language as to where the cannabis/marijuana may remain, such as any cannabis/marijuana purchased or grown in Missouri must remain in Missouri. While this is a federal offense, a lack of this type of language may allow Missouri cannabis/marijuana facilities to distribute cannabis/marijuana outside of the state or allow other states to distribute their cannabis/marijuana in Missouri. A lack of such language could lead to Missouri being a distribution state for states where cannabis/marijuana remains illegal.

For further consideration, as the legalization or decriminalization of cannabis/marijuana has increased in the past several years, so have the crashes and deaths on our highways. Blood screenings on drivers in serious injury and fatal crashes have shown a staggering increase in drivers who have cannabis/marijuana within their system at the time of the crash.

Overall cost to the Patrol:
214 temporary employees = $800,000
8 new canines for the canine program = $176,000
Total cost = $976,000

Officials from the **Department of Social Services** indicated a fiscal impact of negative $173,060 to negative $2,161,697 in fiscal year 2023 and negative $158,502 to negative $2,147,139 in fiscal year 2024.

BILL SUMMARY:
Initiative petition 22-023 / Constitutional Amendment to Article XIV Section 1 of the Missouri Constitution SUMMARY: amends Article XIV Section 1 relating to medical marijuana -- "Missouri Cannabis Restoration and Protection".

Section 1 - Removes language permitting state-licensed physicians to prescribe marijuana. Removes marijuana from Missouri Revised Statutes list of controlled substances and classifies it as a food product, not a controlled substance.

CD response:
The Children's Division does not anticipate a fiscal impact.

Section 2 - Establishes definitions for "Cannabis" and related terms in this section.

CD response:
The Children's Division does not anticipate a fiscal impact.

Section 3 - Removes current rules concerning personal and commercial use of Cannabis and makes possession, cultivation, consumption, etc. for recreational or medical personal use legal in all respects.

CD response:
The Children's Division does not anticipate a fiscal impact.

Section 4 - Removes taxation and reporting. Allows physicians and veterinarians to prescribe Cannabis at will to patients. Medical care, including organ transplants, shall not be restricted based on a person's use of Cannabis.

CD response:
The Children's Division does not anticipate a fiscal impact.

Section 5 - Removes "Additional Patient, Physician, and Caregiver Protections" as they are no longer needed. Adds "Zoning", which states that Cannabis farmers, manufacturers, processors, and distributors shall not be subject to any special zoning or excessive licensing requirements that are discriminatory in any way.

CD response:
The Children's Division does not anticipate a fiscal impact.

Section 6 - Removes "Legislation" and adds "Law Enforcement and the Courts". Sets forth rules for law enforcement and court interaction with Cannabis users/possessors concerning driving under the influence, assisting federal authorities, civil asset forfeiture, etc.

CD response:

6(b) Federal eligibility for Child Abuse Prevention and Treatment Act (CAPTA) grants requires that all health care providers must notify state child protective services of all infants born and identified as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or fetal alcohol spectrum disorder. This initiative would make such referrals permissive for infants born to women who test positive for marijuana. In 2018, failure to make all such referrals mandatory under Missouri law prompted the Administration of Children and Families (ACF) to inform Children's Division (CD) that ACF would be forced to withhold—and if left unresolved deny—Missouri its CAPTA grant or Children's Justice Act (CJA) grant funding for FY2019. There is the potential for the federal government to deny federal funding for the Children's Division.

Children's Division received roughly $314,000 in CJA grants and $1,671,637 in CAPTA grants last year which would require GR to pick up for the loss of funding. This is expressed as a range, because federal denial of funding is uncertain.

6(e) This subsection would require the destruction of all of Children's Division's cannabis related non-violent civil and criminal records. Identifying those records and amending the related Child Abuse Neglect findings would require additional staff.

In FY2020 there were 55,853 reports alerted to the field. It is estimated that 20% of those calls could be marijuana related and subject to needed review and potential amendment and destruction totaling 11,171 reports.

Based on fiscal calculations this would require 2.0 FTES ($158,502 annually by FY2024).

Section 7 - Removes "Additional Provisions" and adds "Regarding Federal Law". Pursuant to the Ninth and Tenth Amendments to the Constitution of the United States, the people of Missouri hereby repudiate and challenge federal Cannabis prohibitions that conflict with this Act.

CD response:
The Children's Division does not anticipate a fiscal impact.

Section 8 - Removes "Severability" and adds "Existing Local, State and Federal Law". All provisions of this section shall supersede conflicting city, county, state or federal statutory, local charter, ordinance or resolution.

CD response:
The Children's Division does not anticipate a fiscal impact.

Section 9 - Removes "Effective Date" and adds "Implementation". The dictates of this initiative, unless otherwise indicated by this initiative, shall be implemented no later than January 31st, 2023.

CD response:
The Children's Division does not anticipate a fiscal impact.

Officials from the **Governor's office** indicated this proposal, which removes cannabis from Missouri's list of controlled substances, as well as removing other current Missouri prohibitions relating to cannabis possession, use, and economic activities, should not fiscally impact their office.

Officials from the **House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated:

FEDERAL LAW PROHIBITS COMMERCIAL MOTOR VEHICLE (CMV) DRIVERS' USE OF CANNABIS

Regardless of what the States' stances are on cannabis, Federal DOT prohibits the use of cannabis by drivers of commercial motor vehicles, as the DEA currently considers THC to be a Schedule I controlled substance. The only exception is the Schedule V Cannabidiol (CBD) drug Epidiolex used to treat seizures. Their department believes that this is the only drug containing THC (.1% or less) that commercial motor vehicle drivers are allowed to take if medically prescribed by a licensed physician. All other medical marijuana is Schedule I.

VARIANCE ADDRESSED

The initiative petition does create a variance with the Federal Motor Carrier Safety Regulations (FMCSRs) with respect to "the immediate expungement of civil and criminal records pertaining to all non-violent Cannabis only offenses which are no longer illegal in the State of Missouri under this Act."

Title 49 CFR Part 391.15 addresses disqualification of drivers (Commercial Driver's License (CDL) and non-CDL CMV drivers). A driver who is convicted of a disqualifying offense is disqualified for one year from the date of conviction for first offenders and 3 years after the date of conviction if during the previous 3 years preceding the conviction date the driver was convicted of a disqualifying offense.

Two of the disqualifying offenses reference driving a CMV under the influence of a Schedule I substance and transporting, possessing or using a Schedule 1 substance while on duty:

49 CFR 391.15(c)(2)(ii) Driving a commercial motor vehicle under the influence of a 21 CFR 1308.11 Schedule I identified controlled substance, an amphetamine, a narcotic drug, a formulation of an amphetamine, or a derivative of a narcotic drug;

49 CFR 391.15(c)(2)(iii) Transportation, possession, or unlawful use of a 21 CFR 1308.11 Schedule I identified controlled substance, amphetamines, narcotic drugs, formulations of an amphetamine, or derivatives of narcotic drugs while the driver is on duty, as the term on-duty time is defined in § 395.2 of this subchapter;

They are going to assume driving under the influence of marijuana will continue to be illegal in Missouri and the DUI of marijuana prior convictions will not be expunged.

However, a CMV driver convicted of possession of marijuana while on duty is a disqualified driver. This is true whether the marijuana possessed is in a State that considers it legal.

If prior non-violent possessions of marijuana convictions are wholly expunged from the criminal records, CMV drivers who would be disqualified under current law would be allowed to drive.

This variance would affect Motor Carrier Safety Assistance Program (MCSAP) funding. Missouri's share of MCSAP funds in FY 2021 are $7,060,488. The federal penalty for this variance is unknown at this time, but would range from between no penalty to the loss of this entire share of federal funds.

This bill could cause a significant impact to their operations and employment. It legalizes marijuana for all use, and prohibits employers from disciplining/terminating employment due to marijuana use. However, with marijuana still prohibited by federal law, and their department being subject to the FMCSRs on drug testing, they would be in the position of being in conflict with one of the laws or walking a very fine line between the two. If an employee (or pre-employment/post-offer hire) tests positive for marijuana on a United State Department of Transportation (USDOT)-required drug test, the FMCSR requires their department to remove that employee from safety sensitive functions until certain criteria are met. Currently, their policy is to simply terminate the employment of anyone who tests positive for marijuana or other illegal drugs. In order to comply with this initiative petition, they would have to leave the employee in their position. But to comply with the FMCSR, the employee could not perform any safety sensitive functions. This would cause many employees to be exempt from essential functions of their positions, which would mean they are not getting the full value of the employee's wages that are being paid, and could also require them to hire additional employees to perform the safety sensitive functions of the employee who tested positive.

In CY 2020, they had 17 employees and 5 pre-employment/post-offer employees test positive for marijuana. To date in CY 2021, they have had 4 employees test positive for marijuana. If marijuana were to become legal under state law, these numbers would likely increase.

The prohibition of the use of marijuana being used as the basis of a driving under the influence charge also has highway safety concerns. This could cause an indirect fiscal impact on their department, as it could cause an increase in crashes on the roadway. These

crashes could result in damage to the roadway that must be repaired and/or an increase in claims of dangerous conditions in the highway.

Officials from the **Office of Administration** indicated this proposal amends Article XIV, Section 1 of the Missouri Constitution by repealing all of the medical marijuana language that was voter approved in November 2022 and replacing it with language for recreational marijuana.

Section 1.1 states that cannabis shall immediately be removed from the Missouri Revised Statutes list of controlled substances. **Section 1.6** requires, upon passage of the act, the immediate release of all persons incarcerated or under Probation and Parole supervision for non-violent cannabis-only offenses as well as expungement of their records pertaining to these offenses within 60 days. The Office of Administration, Division of Budget and Planning (B&P) defers to the Department of Corrections for the estimated impact from this provision.

Section 1.4 states that medical cannabis shall be available to patients without taxation as long as a patient has a physician's recommendation. B&P notes that it is unclear if the term "recommendation" refers to a medical prescription or simply a suggestion. B&P further notes that if "recommendation" is interpreted to mean anything other than prescription, potential subsequent sales and/or excise tax revenues to the state could be significantly negatively impacted. B&P also notes that this proposal does not include any regulatory framework or specify any agency responsible for enforcement of medical marijuana sales.

B&P notes that no specific tax levy is included within this proposal. Therefore, B&P assumes that only current state and local sales taxes would be applied to the sale of non-medical cannabis. Section 1.1 defines cannabis as "food". B&P notes that per Section 144.014, RSMo., the 3% state general revenue sales tax is not applied to food purchased through a vending machine or on food for which food stamps may be redeemed. B&P assumes that under this definition, cannabis products could still be subject to the 3% general revenue sales tax, unless the cannabis is sold through vending machines.

In addition, this proposal would eliminate the 4% tax on medical marijuana sales that under current law is dedicated to the Missouri Veterans' Health and Care Fund.

B&P further notes that this proposal does not specify the age individuals must be to purchase cannabis. For the purpose of this fiscal note, B&P assumes that an individual must be at least 18 years old; however, as written, it appears that minors could also purchase cannabis. A change in the age assumption could change the estimated fiscal note impacts shown below.

Based on research, B&P was able to find forecasts for the U.S. legal market for cannabis[1]. According to such forecasts, the U.S. market for legal marijuana will be approximately $32.1 billion in calendar year 2023 and grow up to $47.3 billion by calendar year 2027. Based on information from the Substance Abuse and Mental Health Services

[1] https://cannabusinessplans.com/cannabis-legal-market-size-projections/

Administration[2], from 2018-2019 approximately 15.03% of Missouri residents and 16.98% of all U.S. residents surveyed have used marijuana within the last year. Using the populations of Missouri residents age 18 and over compared to the U.S. population age 18 and over, B&P estimates that the market for legal marijuana in Missouri is 1.66% of the total U.S. market. Therefore, B&P estimates that the Missouri market for legal marijuana would be approximately $534.1 million in calendar year 2023 ($32.1 billion x 1.66%) and up to $787.1 million by calendar year 2027 ($47.3 billion x 1.66%).

Based on further research[3], B&P estimates that there could be between 61,700 to 122,500 medical marijuana users in Missouri. Using these estimates, and the estimates shown above, B&P estimates that the Missouri market for medical marijuana would be between 0.14% and 0.29% of the total U.S. Market for legal marijuana. Therefore, B&P estimates that the total Missouri market for recreational marijuana would be 1.38% to 1.52% of the total U.S. market. Table 1 shows the estimated U.S. and Missouri markets for marijuana.

Table 1: Estimated Marijuana Market Size for the U.S. and Missouri

Calendar Year	Estimated U.S. Market Size	Estimated MO Market Size	Estimated MO Medical Market Size	Estimated MO Recreational Market Size
2023	$32,100,000,000	$534,147,370	$68,884,957	$465,262,414
2024	$35,900,000,000	$597,379,769	$85,613,340	$511,766,429
2025	$39,700,000,000	$660,612,168	$102,341,724	$558,270,445
2026	$43,500,000,000	$723,844,567	$119,070,107	$604,774,460
2027	$47,300,000,000	$787,076,966	$135,798,491	$651,278,476

Based on the estimates for the medical marijuana market, B&P estimates that the Missouri Veterans' Health and Care Fund would lose ($1.4 million) in funding during calendar year 2023. By calendar year 2027, the Fund would lose up to ($5.1 million).

Applying the state sales tax rate of 4.225% and excluding the estimated market for medical marijuana B&P estimates that this proposal may increase state revenues by $16.9 million in calendar year 2023. By calendar year 2027, B&P estimates that this proposal may increase state revenues by $22.1 million. This proposal could also increase local revenues by $18.8 million in calendar year 2023 and $26.2 million by calendar year 2027. Table 2 shows the estimated revenues generated by calendar year.

[2] https://www.samhsa.gov/data/report/comparison-2015-2016-and-2016-2017-nsduh-population-percentages-50-states-and-district

[3] https://www.stltoday.com/news/local/metro/plenty-of-pot-study-says-missouri-will-license-twice-as/article_e94469b0-e1c6-5893-bc2e-e1d7b24f4a73.html

Table 2: Sales Tax Collections by Calendar Year (CY)

Fund	CY 2023	CY 2024	CY 2025	CY 2026	CY 2027
GR (3.0% tax)	$13,957,872	$15,352,993	$16,748,113	$18,143,234	$19,538,354
Education (1.0% tax)	$4,652,624	$5,117,664	$5,582,704	$6,047,745	$6,512,785
Conservation (0.125% tax)	$581,578	$639,708	$697,838	$755,968	$814,098
Parks, soil, water (0.1% tax)	$465,262	$511,766	$558,270	$604,774	$651,278
Veterans' Health and Care Fund (4% tax)	($2,755,398)	($3,424,534)	($4,093,669)	($4,762,804)	($5,431,940)
TSR (total 4.225% state sales tax)	$16,901,939	$18,197,598	$19,493,257	$20,788,917	$22,084,576
Local Revenue (pop. weighted local rate 4.03%)	$18,750,075	$20,624,187	$22,498,299	$24,372,411	$26,246,523

However, B&P notes that if voter approved in November 2022, this proposal would not be enacted until January 1, 2023, which is halfway through FY 2023. Based on historical sales tax collection data, B&P adjusts calendar year collections 50% into the first fiscal year (FY) and 50% into the second fiscal year. Therefore, B&P estimates that this proposal will increase state revenues by $8.5 million in FY 2023. BY FY 2028, this proposal may increase state revenues by $22.1 million. This proposal may also increase local revenues by $9.4 million in FY 2023 and up to $26.2 million by FY 2028. Table 3 shows the estimated revenue generated by fiscal year.

Table 3: Sales Tax Collections by Fiscal Year (FY)

Fund	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GR (3.0% tax)	$6,978,936	$14,655,433	$16,050,553	$17,445,674	$18,840,794	$19,538,354
Education (1.0% tax)	$2,326,312	$4,885,144	$5,350,184	$5,815,225	$6,280,265	$6,512,785
Conservation (0.125% tax)	$290,789	$610,643	$668,773	$726,903	$785,033	$814,098
Parks, soil, water (0.1% tax)	$232,631	$488,514	$535,018	$581,522	$628,026	$651,278
Veterans' Health and Care Fund (4% tax)	($1,377,699)	($3,089,966)	($3,759,101)	($4,428,237)	($5,097,372)	($5,431,940)
TSR (total 4.225% state sales tax)	$8,450,969	$17,549,768	$18,845,428	$20,141,087	$21,436,746	$22,084,576
Local Revenue (pop. weighted local rate 3.86%)	$9,375,038	$19,687,131	$21,561,243	$23,435,355	$25,309,467	$26,246,523

B&P notes that due to the bill's lack of clarity concerning what constitutes a medical marijuana exemption and the age required to purchase, these estimates may be different from actual collections.

Section 1.5 states that cannabis farmers, manufacturers, and distributors shall not be subject to special zoning or license fees that are contrary to any other commercial or

agriculture business. B&P notes that under Amendment 2 (which this language is replacing) medical marijuana facilities are subject to various license and renewal fees. B&P defers to the Department of Health and Senior Services for the potential lost revenue from the removal of the current language.

Section 1.8 states that all provisions of Section 1 shall supersede conflicting city, county, state or federal statutory, local charter, ordinance, or resolution. B&P notes that state law may not supersede federal law.

Officials from the **Office of State Courts Administrator** indicated the initiative petition proposing to amend Article XIV establishes and modifies provisions relating to the legalization of marijuana for adult use.

The average of all marijuana related charge codes from 2015 to 2019 for Circuit case types is 2,457 per year. The average of all marijuana related charge codes from 2015 to 2019 for Associate case types is 8,153. They are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this proposed legislation:

Criminal Court Costs		
Felony Case Costs	**Amount of Cost**	**Disburse to State/County**
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County
Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund

Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$5.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	**$283.50**	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$5.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County

Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	**$106.50**	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	**$33.50**	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts and to the specific funds.

They also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time they are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated they provide representation in over 5,000 cases involving possession of controlled substance. The exact number that involve cannabis is unknown at this time. This initiative petition would result in a decrease in case intake for Missouri State Public Defender. Because current case numbers are such that they are unable to provide competent counsel in all eligible cases, the reduction in intake as a result of this initiative would not reduce the number of necessary staff. The initiative could however, bring their office closer to reasonable caseloads.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following as a result of this petition and amendment:

Revenues:

- Increase in sales taxes ~$100,000
- Increase in property taxes ~$20,000
- Increase in zoning fees ~1,000
- Decrease in juvenile detention reimbursements ($1,000)
- Decrease in federal equitable sharing ~($10,000)
- Decrease in criminal/court fees ~($2,000)
- Total ~$108,000

Expenditures:

- Decrease in traffic/DUI OT and enforcement ~($2,000)
- Decrease in court/prosecution costs ~($2000)
- Decrease in Juvenile costs ~($5,000)
- Increase in DARE costs ~$1,000
- Total ~($8,000)

Total savings to the County of $116,000 from estimated $108,000 in increased revenues and cost savings of $8,000.

All amounts are on an annual basis.

Officials from **Greene County** indicated there is anticipated costs to the County of Greene for this initiative petition, per the following information concerning this initiative petition, https://static1.squarespace.com/static/5541a76ae4b0175cee8827d0/t/580684e5ff7c50adea98399e/1476822252561/Letter+to+CA+from+Denver+DA.jpgI provided by their County Prosecutor, Dan Patterson.

To fully understand the fiscal impact would require a very detailed study to give the best opportunity to understand the impact to law enforcement, prosecutors and the circuit courts within the proposed changes of this initiative petition, which the attached letter demonstrates occurred in Colorado after similar legislation passed.

County Prosecutor, Dan Patterson provided the following information:

DenverDA
Mitchell R. Morrissey, District Attorney - Second Judicial District
201 W. Colfax Avenue, Dept. 801, Denver, CO 80202
Bus. Phone: 720-913-900
Fax: 720-913-903

October 12, 2016

No on 64 Campaign and SAM Action

California voters are being told that they will see the crime rate go down if they vote to legalize marijuana commercially; this has not been the case in the state of Colorado or the city of Denver. Since the legalization of recreational marijuana in Colorado in 2013 traffic related marijuana deaths have increased 48%, marijuana related emergency room visits have increased 49%, and marijuana related calls to the poison center have increased 100%. According to the Colorado Bureau of Investigations in 2015 statewide homicides in Colorado rose 14.7 % over the previous year. Pueblo, Colorado had the highest homicide rate in the state with 11.1 killings per 100,000 residents. Aurora, Colorado's homicide rate more than doubled from 2014. Additionally more places in Colorado were robbed and more thefts occurred, especially cars, as 193,115 motor vehicles were reported stolen, up 27.7 % in 2015 from the previous year. In 2015, sexual assaults rose 10% in Colorado with Denver, Aurora, Lakewood, Westminster and Pueblo all reporting higher numbers as well.

In the city of Denver since the legalization of recreational marijuana the number of crimes in Denver has grown by about 44 %, according to annual figures the city reported to the National Incident Based Reporting System. In 2015 in Denver alone crime rose in every neighborhood in the city. The murder rate hit a decade high, 1059 more cars were broken into, there were 903 more auto thefts, 321 more aggravated assaults and 231 more homes were broken into compared to 2014.

California voters are also being told that legalizing recreational marijuana will free up law enforcement to work on other criminal activities. Again that has not been the case in Denver. Besides the overall increases in crime we have experience, the Denver police department is dealing with a 900% increase in the unlawful cultivation and manufacture of marihuana concentrate, and a 99% increase in the unlawful distribution of marijuana and marijuana concentrate. The quantity of illegal marijuana seized by the Denver police has increased 3,424% on average per case. The volume of marijuana seized per case has increased from an average of 162 pounds to 5724 pounds. In Denver unlawful public consumption of marijuana citations has increased over 300% per year since the legalization of recreational marijuana. The Denver police department is busier enforcing marijuana laws and investigating crimes directly related to marijuana, including murderers, robberies, and home invasions, than any other time in the history of the city.

Sincerely,

Mitchell R. Morrissey
Denver District Attorney

Officials from the **City of Kansas City** indicated this petition to amend Article XIV if approved would have no fiscal impact on their city.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from **University of Central Missouri** have determined the potential for an increase in costs of staff time, however it is too broad in scope to determine an estimated amount. The university would likely want to create a policy to restrict use on campus (similar to tobacco) and that would take staff time to draft, review, and approve policies. Additionally, they might see an increase in public safety interactions for students who are using and/or enforcement of any new policies. All of which they cannot really determine at this point in time as it is too prospective. Also, the proposed amendment could put them in violation of the Safe and Drug-Free Schools and Communities Act and it could impact future federal funding.

Officials from the **Missouri Veterans Commission** indicated the following:

Michael L. Parson
Governor

Paul Kirchhoff
Executive Director

MISSOURI VETERANS COMMISSION

205 Jefferson Street, P.O. Drawer 147, Jefferson City, MO 65102-0147
Telephone: (573) 751-3779 www.mvc.dps.mo.gov Fax: (573) 751-6836

March 24, 2021

The Honorable John R. Ashcroft
Secretary of State
600 W. Main Street
Jefferson City, MO 65101

Dear Secretary of State Ashcroft,

Initiative Petition 2022-023 (hereinafter, the Petition) will have a disastrous fiscal impact upon the Missouri Veterans Commission. Under the existing medical marijuana program (Article XIV of the Missouri Constitution), we anticipate receiving $16,800,000 in SFY22, and significantly greater amounts in subsequent fiscal years from the tax revenues generated from the retail sales of medical marijuana. The Petition eliminates tax revenues from medical marijuana in their entirety in section 4. Moreover, the Petition is silent on any taxation program to replace the medical marijuana taxation program, so there is no proposed mechanism to replace the revenues lost from the current medical marijuana program. Therefore, if enacted, Initiative Petition 2022-023 will have a devastating impact on the ability of the Missouri Veterans Commission to serve the veterans of Missouri. If I can be of any further assistance on this issue, please contact me at (573) 751-4066 at your convenience.

Sincerely,

Paul Kirchhoff
Executive Director
Missouri Veterans Commission

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER
services provided on a nondiscriminatory basis

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, University of Missouri, St. Louis Community College, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University, Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** and the **Metropolitan Police Department - City of St. Louis.**

Fiscal Note Summary

State governmental entities estimate savings of at least $2 million annually and an annual impact to revenues ranging from a $12 million decrease to a $22 million increase by 2028. Local governmental entities are estimated to have revenue increases ranging from $4 million to $26 million annually by 2028.

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 MAR 19 AM 8:53

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Street Address of Affiant

_____
City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____
Signature of Notary

_____
Address of Notary

22-022

Be it resolved by the people of the state of Missouri that the Constitution be amended:

so that it establishes election integrity procedures to (a) prevent attempts to fraudulently influence Missouri's elections, and (b) instill confidence in Missouri voters in the reported results of its elections.

Article XXX,

Sec. 1. Prohibited Election Conduct

(1) No voting machine may be utilized in any election to count or calculate votes. All votes shall be counted by hand by the judgment of the human eye. All counting shall occur by two persons.
(2) Any differences or uncertainties in counting by the two shall only be resolved by an individual approved and appointed in advance of the election by the state legislature.
(3) Mail in ballots shall be prohibited, except when requested by a voter in advance and after showing state-issued photo identification or a state-issued driver's license.
(4) All internet connectivity shall be discontinued at any polling place during the entire time votes are cast and counted. In addition, all persons serving in any capacity at a polling location, except observers, shall from the time of poll closing until the vote has been finally and publicly reported check in their cell phones so the counting occurs without the potential bias of any electronic sources of information of vote totals from other locations.
(5) Local law enforcement officials shall prohibit the delivery of boxes of any kind at a polling place from the time the polls are first open for voting until after all votes have been counted and reported.

Sec. 2. Registration Requirements

(1) All registration to vote shall occur on or before 14 days prior to an election day. Such registration shall require the registering voter to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.

Sec. 3. Election Observer and Reporting Requirements

(1) No early voting shall be permitted more than two weeks before election day. All mail in ballots must be received two days before election day. Otherwise, they shall not be counted. Mail in balloting cannot be permitted to delay the announcement of full election totals within four hours after the poll's closing.
(2) All voters in all elections shall be required to show valid state-issued photo identification or a valid state-issued driver's license. No identification or driver's license which has expired shall be valid.
(3) All observers in a polling station shall be located within five feet of any station they desire to observe. Observers inside a polling station shall also be permitted to photograph any or all activities they desire. Private citizens outside a polling station shall be permitted to photograph any and all activity they desire and shall be free from any liability of any kind for such photographing. All photographing shall be understood to include and allow video-taping and the recording of sound and voice.
(4) All ballots shall be counted only at and reported only from the place where the votes are cast.

(5) Under no condition shall the counting of votes be stopped between the time that a poll has closed and four hours thereafter unless completed.
(6) All votes shall be counted and reported within four hours of the time voting has closed. No votes being reported thereafter shall be valid.
(7) All vote totals shall be reported from all locations on the following basis: (a) by 11:59 p.m. of the night before the election (relating to early voting and mail in ballots); (b) at one hour after the scheduled polling closing time; (c) at two hours after the scheduled polling closing time; (d) at three hours after the scheduled polling closing time; and, finally, (e) at four hours after the scheduled polling closing time.

Sec. 4. Legislative Election Authority

(1) The legislature of the state shall have authority in elections for president and vice president of the United States to adjust or void any vote totals it determines appropriate. It may also ignore any vote totals and exercise its right to appoint electors as specified under the United States Constitution.
(2) Any alleged violation of state election law may be remedied by a complaint filed with the state legislature, who shall promptly according to its own procedures review, receive evidence, and make a final ruling on the same.

Sec. 5. Inspection Rights

(1) All registration material, election-related computer files and data bases, and actual ballots cast shall remain available for inspection by representatives of any state party, the legislature, the courts, and any group of 1,000 or more requesting registered voters, for 120 days after the election.

Sec. 6. Election Crimes

(1) Any person (a) voting twice or more times in a single election, or (b) voting on behalf of a deceased person, or (c) voting using another person's name, or (d) voting who is not a United States citizen shall be guilty of treason against the state.
(2) Election officials denying any right to observers to an election shall be guilty of a Class III felony.
(3) Any person who resets or erases any election files or data bases, or destroys or misplaces any ballots prior to the end of the 120-day inspection period shall be guilty of a Class III felony.
(4) Any polling supervisor who fails to report partial and final results on the schedule shall be guilty of a Class III felony.
(5) Any ballot counter who intentionally, with a lack of good faith, causes ballots to be adjudicated shall be guilty of a Class III felony.

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

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RECEIVED
2021 MAR 19 AM 8:52
MO SEC OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

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_____ Signature of Affiant (Person obtaining signatures)

_____ Printed Name of Affiant

_____ Street Address of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-021

Be it resolved by the people of the state of Missouri that the Constitution be amended:

so that it (a) clarifies the Federal Government duty to uphold the rights of Missouri citizens under the U.S. Constitution, including the Bill of Rights and all other provisions, (b) identifies breaches by the Federal Government, and (c) affirms Missouri's right to assess the severity and consequences of such breaches of the US Constitution.

Article XXIX,

Sec. 1. Duty of Federal Government of the United States to Uphold the Bill of Rights and Constitution

(1) The State of Missouri hereby clarifies its admission as a State into the United States of America. Such application by Missouri and admission by the federal government are, in essence, a governmental compact between the two whereby both parties undertake to fulfill their respective duties.
(2) The Supremacy Clause of the Constitution of the United States and application of the doctrine set forth in Marbury v. Madison together are not designed to give the federal government a "blank check" in this governmental compact. Accordingly, the federal government is obligated to uphold its end of the bargain, or else find itself in breach.
(3) Some breaches of federal government duty may be material, and some may be immaterial.
(4) All breaches of the federal government to uphold each of the provisions of the Bill of Rights, including the Tenth Amendment, of the Constitution of the United States is a material breach.
(5) Failure of the federal government to allow states to propose Constitutional amendments under Article V of the Constitution of the United States of America is also a material breach.
(6) The State of Missouri reserves the right to address breaches, both material and immaterial, as it may determine proper, following good faith efforts to reconcile such breaches and allowing the federal government a period in which it can remedy its breach of contract.

Sec 2. Federal Breaches

The following actions by the United States of America constitute breaches of the Constitutional compact it has with the State of Missouri:

(a) The excessive use of executive orders by the President of the United States of America, except in the case of live military conflict, circumventing the representative legislative process;
(b) The excessive and reckless incurrence of debt, except in the case of anticipated or live military conflict;
(c) Failure to effectively protect the borders of the country from unauthorized entry or invasion;
(d) Failure by the Justice Department and Supreme Court of the United States of America to (i) equally enforce the rule of law, (ii) imbue citizens with confidence that the results of national elections are free and fair, and (iii) provide prompt enforcement of criminal laws without endless delays due to investigations often times resulting in no meaningful enforcement action;
(e) Failure by the federal government to protect the right of the State of Missouri under the Tenth Amendment to the Constitution of the United States of America to exercise powers not specifically given to the federal government, including the power to protect life and protect marriage as Missouri determines best;
(f) Dramatically curtailing freedom of speech of all kinds, in both the public and private arena;
(g) Increasingly curtailing freedom of worship with only the least restrictive means of governmental limitation to serve a compelling governmental interest;

(h) Congress effectively ignoring the right of States to propose amendments to the Constitution of the United States of America under Article V; and,
(i) In the name of protection, creating and deploying espionage tools stripping Americans of their sense of privacy of thought, speech, and action, and use of electronic tools of all kinds.

Sec 3. Significance of such Breaches

The severity of such breaches, and which, if any of them, are immaterial, and the consequences thereof are for the State of Missouri to assess and decide.

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

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RECEIVED
2021 MAR 19 AM 8:51

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
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_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-020

Be it resolved by the people of the state of Missouri that the Constitution be amended:

To include the Bill of Rights as part of the Constitution of the State of Missouri.

Article XXVIII,

Sec. 1, Power of the People

All power of government is created by and comes from the People to the Government.

Sec. 2, Bill of Rights

The State of Missouri hereby guarantees to all its citizens to protect all of the following rights from infringement by any government (collectively known as the Missouri Bill of Rights):

(1) No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
(2) A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.
(3) No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.
(4) The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, including all forms of electronic searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
(5) No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.
(6) In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.
(7) In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.
(8) Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.
(9) The enumeration in the Constitution of Missouri, of certain rights, shall not be construed to deny or disparage others retained by the people.
(10) The powers not delegated to the United States by the Constitution of the United States, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Sec. 3, Involuntary Servitude

Involuntary Servitude is prohibited of any individual by another, and also of the State of Missouri by the Federal Government.

Sec 4, Remainder of Constitution

The State of Missouri hereby adopts all the remaining text of the Constitution of the United States of America as a part of its own Constitution, without applicability of any Supreme Court or Federal Court decisions or precedents, to be effective if and only if,

(a) the United States of America collapses, or

(b) Missouri lawfully ceases to be a part of the United States of America.

Upon (a) or (b) happening, prior Federal Court decisions, including those considering state issues, shall be of no further authority in Missouri.

Sec 5, Past Court Decisions and Interpretations

Any holdings in In re Interest of Anaya, 276 Neb. 825 or State v. Noble, 171 Ariz. 171 are hereby rejected; while the holdings in Hendricks v. State,897 N.E.2d 1208 (Ind. Ct. App. 2008) are hereby affirmed. The interpretation of the Missouri Bill of Rights shall be by Missouri courts and fresh and independent of past interpretations of the Bill of Rights contained in the United States Constitution. No contemporaneous, legislative, or administrative construction of the Missouri Bill of Rights is permitted; although reference to the Federalist Papers for interpretive guidance is permitted. All the provisions of the Missouri Bill of Rights are self-executing and shall be so interpreted.

The provisions of this amendment shall be interpreted to supplement other provisions of the Constitution of Missouri, where such provisions can be consistently interpreted, or, if such construction is not possible, then the provisions of this amendment shall supersede such other provisions of the Constitution of Missouri.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

March 9, 2021

RECEIVED
MAR 0 9 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed constitutional amendment to Article III, version 2 (2022-019)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Winston Apple on March 9, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

22-019

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 MAR -9 AM 8:54
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article III of the Constitution is revised by repealing Sections 5, 6, 9, 10, 11, 14, and 27 and amending Sections 1, 3, 4, 7, 8, 9, 12, 13, 15, 16, 17, 18, 19, 20(a), 20(b), 20(d), 21, 22, 24, 25, 26, 29, 30, 31, 32, 34, 35, and 45, to read as follows:

Section 1. The legislative power shall be vested in a [senate and house of representatives] legislature to be styled "The General Assembly of the State of Missouri."

Section 3. [(a)] Beginning with the election of representatives in the general election to be held in the year two thousand and twenty-four and the convening of the one-hundred-and-third General Assembly the [The house of representatives] General Assembly shall consist of [one hundred sixty-three members] twenty members from each congressional district and three at-large members elected at each general election [and redistricted as provided in this section]. The one-hundred-and-third General Assembly shall also include senators elected in two thousand and twenty-two, who shall serve as at-large representatives as provided in Section 7 of this article.

[(b) The house independent bipartisan citizens commission shall redistrict the house of representatives using the following methods, listed in order of priority:

(1) Districts shall be as nearly equal as practicable in population, and shall be drawn on the basis of one person, one vote. Districts are as nearly equal as practicable in population if no district deviates by more than one percent from the ideal population of the district, as measured by dividing the number of districts into the statewide population data being used, except that a district may deviate by up to three percent if necessary to follow political subdivision lines consistent with subdivision (4) of this subsection;

(2) Districts shall be established in a manner so as to comply with all requirements of the United States Constitution and applicable federal laws, including, but not limited to, the Voting Rights Act of 1965 (as amended). The following principles shall take precedence over any other part of this constitution: no district shall be drawn in a manner which results in a denial or abridgment of the right of any citizen of the United States to vote on account of race or color; and no district shall be drawn such that members of any community of citizens protected by the preceding clause have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice;

(3) Subject to the requirements of subdivisions (1) and (2) of this subsection, districts shall be composed of contiguous territory as compact as may be. Areas which meet only at the points of adjoining corners are not contiguous. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries;

(4) To the extent consistent with subdivisions (1) to (3) of this subsection, communities shall be preserved. Districts shall satisfy this requirement if district lines follow political subdivision lines to the extent possible, using the following criteria, in order of priority. First, each county shall wholly contain as many districts as its population allows. Second, if a county wholly contains one or more districts, the remaining population shall be wholly joined in a single district made up of population from outside the county. If a county does not wholly contain a district, then no more than two segments of a county shall be combined with an adjoining county. Third, split counties and county segments, defined as any part of the county that is in a district not wholly within that county, shall each be as few as possible. Fourth, as few municipal lines shall be crossed as possible;

(5) Districts shall be drawn in a manner that achieves both partisan fairness and, secondarily, competitiveness, but the standards established by subdivisions (1) to (4) of this subsection shall take precedence over partisan fairness and competitiveness. "Partisan fairness" means that parties shall be able to translate their popular support into legislative representation with approximately equal efficiency. "Competitiveness" means that parties' legislative representation shall be substantially and similarly responsive to shifts in the electorate's preferences.

To this end, the average electoral performance of the two political parties receiving the most votes in the three preceding general elections for governor, for United States Senate, and for President of the United States shall be calculated. This index shall be defined as the total votes received by each party in the three preceding general elections for governor, for United States Senate, and for President of the United States, divided by the total votes cast for both parties in these elections. Using this index, the total number of wasted votes for each party, summing across all of the districts in the plan shall be calculated. "Wasted votes" are votes cast for a losing candidate or for a winning candidate in excess of the threshold needed for victory. In any redistricting plan and map of the proposed districts, the difference between the two parties' total wasted votes, divided by the total votes cast for the two parties, shall not exceed fifteen percent.

To promote competitiveness, the electoral performance index shall be used to simulate elections in which the hypothetical statewide vote shifts by one percent, two percent, three percent, four percent, and five percent in favor of each party. The vote in each individual district shall be assumed to shift by the same amount as the statewide vote. In each of these simulated elections, the difference between the two parties' total wasted votes, divided by the total votes cast for the two parties, shall not exceed fifteen percent.

(c) Within sixty days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a redistricting plan has been invalidated by a court of competent jurisdiction, within sixty days that such a ruling has been made, the state committee and the congressional district committees of each of the two political parties casting the highest vote for governor at the last preceding general election shall meet and the members of each committee shall nominate, by a majority vote of the elected members of the committee present, provided that a majority of the elected members is present, members of their party, residents in that district, in the case of a congressional district committee, as nominees for the house independent bipartisan citizens commission. No party shall select more than one nominee from any one state legislative district. The congressional district committees shall each submit to the governor their list of two elected nominees. The state committees shall each submit to the governor their list of five elected nominees. Within thirty days thereafter, the governor shall appoint a house independent bipartisan citizens commission consisting of one nominee from each list submitted by each congressional district committee and two nominees from each list submitted by each state committee to redistrict the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts. No person shall be appointed to both the house independent bipartisan citizens commission and the senate independent bipartisan citizens commission during the same redistricting cycle.

If any committee fails to submit a list within such time, the governor shall appoint a member of his or her own choice from the political party of the committee failing to submit a list, provided that in the case of a congressional district committee failing to submit a list, the person appointed to the commission by the governor shall reside in the congressional district of such committee.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final redistricting plan.

For the purposes of this Article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

(d) The commissioners so selected shall, on the fifteenth day, excluding Sundays and state holidays, after all members have been appointed, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

(e) Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative redistricting plan and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons. The commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map.

(f) Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

(g) After the final statement is filed, members of the house of representatives shall be elected according to such districts until a new redistricting plan is made as provided in this section, except that if the final statement is not filed within six months of the time fixed for the appointment of the commission, the commission shall stand discharged and the house of representatives shall be redistricted using the same methods and criteria as described in subsection (b) of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its redistricting plan and map with the secretary of state within ninety days of the date of the discharge of the house independent bipartisan citizens commission. The judicial commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map. Thereafter, members of the house of representatives shall be elected according to such districts until a redistricting plan is made as provided in this section.

(h) Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his or her actual and necessary expenses incurred while serving as a member of the commission.

(i) No redistricting plan shall be subject to the referendum.

(j) Any action expressly or implicitly alleging that a redistricting plan violates this Constitution, federal law, or the United States Constitution shall be filed in the circuit court of Cole County and shall name the body that approved the challenged redistricting plan as a defendant. Only an eligible Missouri voter who sustains an individual injury by virtue of residing in a district that exhibits the alleged violation, and whose injury is remedied by a differently drawn district, shall have standing. If the court renders a judgment in which it finds that a completed redistricting plan exhibits the alleged violation, its judgment shall adjust only those districts, and only those parts of district boundaries, necessary to bring the map into compliance. The supreme court shall have exclusive appellate jurisdiction upon the filing of a notice of appeal within ten days after the judgment has become final.]

Section 4. Each representative shall be [twenty-four] eighteen years of age[, and next] before the day of her or his election, shall [have been] be a qualified voter, [for two years] and, with the exception of at-large representatives, a resident of the [county or] district which she or he is chosen to represent for one year, if such [county or] district shall have been so long established, and if not, then of the [county or] district from which the same shall have been taken.

[Section 5. The senate shall consist of thirty-four members elected by the qualified voters of the senatorial districts for a term of four years. Senatorial districts shall be apportioned as provided for in Article III, Section 7.]

[Section 6. Each senator shall be thirty years of age, and next before the day of his election shall have been a qualified voter of the state for three years and a resident of the district which he is chosen to represent for one year, if such district shall have been so long established, and if not, then of the district or districts from which the same shall have been taken.]

Section 7. [(a) Within sixty days after the population of this state is reported to the President for each decennial census of the United States, or within sixty days after a redistricting plan has been invalidated by a court of competent jurisdiction, the state committee and the congressional district committees of each of the two political parties casting the highest vote for governor at the last preceding general election shall meet and the members of each committee shall nominate, by a majority vote of the elected members of the committee present, provided that a majority of the elected members is present, members of their party, residents in that district, in the case of a congressional district committee, as nominees for the senate independent bipartisan citizens commission. No party shall select more than one nominee from any one state legislative district. The congressional district committees shall each submit to the governor their list of two elected nominees. The state committees shall each submit to the governor their list of five elected nominees. Within thirty days thereafter the governor shall appoint a senate independent bipartisan citizens commission consisting of two nominees from each list submitted by each state committee and one nominee from each list submitted by each congressional district committee, to redistrict the thirty-four senatorial districts and to establish the numbers and boundaries of said districts. No

person shall be appointed to both the house independent bipartisan citizens commission and the senate independent bipartisan citizens commission during the same redistricting cycle.

If any committee fails to submit a list within such time, the governor shall appoint a member of his or her own choice from the political party of the committee failing to submit a list, provided that in the case of a congressional district committee failing to submit a list, the person appointed to the commission by the governor shall reside in the congressional district of such committee.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final redistricting plan.

(b) The commissioners so selected shall, on the fifteenth day, excluding Sundays and state holidays, after all members have been appointed, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

(c) The senate independent bipartisan citizens commission shall redistrict the senate using the same methods and criteria as those required by subsection (b), section 3 of this Article for the redistricting of the house of representatives.

(d) Not later than five months after the appointment of the senate independent bipartisan citizens commission, the commission shall file with the secretary of state a tentative redistricting plan and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons. The commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map.

(e) Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

(f) After the final statement is filed, senators shall be elected according to such districts until a new redistricting plan is made as provided in this section, except that if the final statement is not filed within six months of the time fixed for the appointment of the commission, the commission shall stand discharged and the senate shall be redistricted using the same methods and criteria as described in subsection (b) of section 3 of this Article by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its redistricting plan and map with the secretary of state within ninety days of the date of the discharge of the senate independent bipartisan citizens commission. The judicial commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map. Thereafter, senators shall be elected according to such districts until a redistricting plan is made as provided in this section.

(g) Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his or her actual and necessary expenses incurred while serving as a member of the commission.

(h) No redistricting plan shall be subject to the referendum.

(i) Any action expressly or implicitly alleging that a redistricting plan violates this Constitution, federal law, or the United States Constitution shall be filed in the circuit court of Cole County and shall name the body that approved the challenged redistricting plan as a defendant. Only an eligible Missouri voter who sustains an individual injury by virtue of residing in a district that exhibits the alleged violation, and whose injury is remedied by a differently drawn district, shall have standing. If the court renders a judgment in which it finds that a completed redistricting plan exhibits the alleged violation, its judgment shall adjust only those districts, and only those parts of district boundaries, necessary to bring the map into compliance. The supreme court shall have exclusive appellate jurisdiction upon the filing of a notice of appeal within ten days after the judgment has become final.]

(a) Beginning with the election of representatives to be held in the year two thousand twenty-four there will be no primary election for that office. For the general election, all candidates who file to run and are qualified to run, for the General Assembly will be listed on the ballot in the congressional district in which they reside, grouped by political party affiliation. Independent candidates will be grouped together on the ballot.

(b) General elections shall be carried out using a system of ranked choice voting under which each voter shall be able to rank a minimum of three candidates for the General Assembly in order of preference. If feasible, the ballot shall permit voters to rank up to ten candidates for the General Assembly, or as close to that number as feasible. Voters shall be able to request a general ballot listing all of the candidates for all political parties and all independent candidates, a single-party ballot listing only the candidates of a single political party, or a ballot listing only independent candidates.

(c) A number of spaces equal to the number of choices voters are able to rank shall be provided to write in the names of candidates not appearing on the ballot. Write-in votes may be cast for candidates for the General Assembly who are on the ballot in congressional districts other than a voter's congressional district. Those write-in votes from other districts will not be counted as part of the process of determining which candidates are elected to represent each congressional district but will be added to the cumulative vote total of candidates who are elected to the General Assembly for purposes of determining the value of each representative's weighted vote.

(d) The ballot shall be simple and easy to understand, with instructions necessary to enable voters to successfully cast ballots under the ranked choice voting system.

(e) The results of each general election shall be tabulated in two rounds. In the first round of tabulation, only first-choice votes will be counted, with separate vote totals calculated for "in-district votes" (which are votes for candidates residing in each congressional district cast by the voters of that district) and "cumulative votes" (which are the sum of in-district votes plus write-in votes from voters in districts other than the district in which a candidate resides). The twenty candidates with the most in-district votes are elected to represent each congressional district. The three candidates with the most cumulative votes, who were not elected to represent the district in which they reside shall serve as at-large representatives.

(f) In the second round of tabulation, a single vote will be added to the cumulative vote total for each representative who was elected and is the highest remaining choice on a ballot that did not list a winning candidate as the voter's first choice.

(g) Senators who were elected to a four-year term in the election of two thousand and twenty-two shall complete that four-year term by serving as at-large representatives in the one-hundred-and-third General Assembly. The cumulative vote total for those at-large representatives shall be equal to the number of votes received by each of them in the election of two thousand and twenty-two.

(h) With the exception of votes taken to override a governor's veto, for which each representative shall cast a single, non-weighted vote, representatives shall be given weighted votes in all matters before the General Assembly based on the total number of cumulative votes received by each representative. The value of each representative's weighted vote shall be determined by dividing the number of cumulative votes received by each representative by the number of cumulative votes received by the representative with the lowest number of cumulative votes.

(i) If a voter inadvertently casts a vote for more than a single candidate among any of their ranked choices each candidate listed will be given the appropriate fraction of a whole vote. If a voter inadvertently fails to fill in a choice among their ranked choices but has additional lower-ranked choices, the missing ranked choice will be ignored. A ballot with no remaining choices for candidates who were elected is an "exhausted ballot" and shall be set aside.

(j) Officials shall determine a random selection algorithm, prior to tabulation, to resolve ties between candidates for the last remaining seat(s) in the General Assembly.

(k) The candidates of all political parties that had at least one candidate for the General Assembly or statewide office who received cumulative votes in the preceding election totaling at least one percent of the votes cast for governor at the last gubernatorial election shall be listed on the ballot.

(l) A political party having no candidate for the General Assembly or statewide office receiving at least one percent of the total vote in the preceding general election, may qualify for a place on the ballot for the General Assembly in each congressional district by presenting petitions signed by one per cent of the legal voters in that congressional district. An independent candidate may qualify for a place on the ballot in a congressional district by presenting petitions signed by one-half of one percent of the legal voters in the congressional district in which they reside. The number of "legal voters" is equal to, and determined by, the total vote for governor in the general election last preceding. Said petitions are to be delivered to the secretary of state no later than one hundred and twenty days preceding the general election.

(m) The signatures on petitions submitted by independent candidates and political parties shall be subject to verification according to the procedures in the code of state regulations for independent candidate petitions in force at the time the petitions are submitted.

Section 8. No one shall be elected to serve more than [eight years total in any one house of the General Assembly nor more than] sixteen years total in [both houses of] the General Assembly. [In applying this section, service in the General Assembly resulting from an election prior to December 3, 1992, or service of less than one year, in the case of a member of the house of representatives, or two years, in the case of a member of the senate, by a person elected after the effective date of this section to complete the term of another person, shall not be counted.]

[Section 9. Until the convening of the Seventy-fourth General Assembly the House of Representatives shall consist of one hundred sixty-three members elected from the one hundred sixty-three representative districts, as they existed January 1, 1965.]

[Section 10. The last decennial census of the United States shall be used in apportioning representatives and determining the population of senatorial and representative districts. Such districts may be altered from time to time as public convenience may require.]

[Section 11. The first election of senators and representatives under this constitution, shall be held at the general election in the year one thousand nine hundred and forty-six when the whole number of representatives and the senators from the districts having even numbers, who shall compose the first class, shall be elected, and two years thereafter the whole number of representatives and the senators from districts having odd numbers, who shall compose the second class, shall be elected, and so on at each succeeding general election.]

Section 12. No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of [senator or] representative. When any [senator or] representative accepts any office or employment under the United States, this state or any municipality thereof, his or her office shall thereby be vacated and he or she shall thereafter perform no duty and receive no salary as [senator or] representative. During the term for which he or she was elected no [senator or] representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This section shall not apply to members of the organized militia, of the reserve corps and of school boards, and notaries public.

Section 13. If any [senator or] representative removes her or his residence from the [district or county for which he was elected, his] state of Missouri, their office shall thereby be vacated. If any representative removes her or his residence from the district from which they were elected, they may serve out their term as long as they continue to reside in Missouri.

[Section 14. Writs of election to fill vacancies in either house of the general assembly shall be issued by the governor.]

Section 15. Every [senator or] representative elect, before entering upon the duties of his or her office, shall take and subscribe the following oath or affirmation: "I do solemnly swear, or affirm, that I will support the Constitution of the United States and of the state of Missouri, and faithfully perform the duties of my office, and that I will not knowingly receive, directly or indirectly, any money or other valuable thing for the performance or nonperformance of any act or duty pertaining to my office, other than the compensation allowed by law." The oath shall be administered in the halls of the [respective houses] General Assembly to the members thereof, by a judge of the supreme court or a circuit court, or after the organization by the [presiding officer of either house] president of the General Assembly, and shall be filed in the office of the secretary of state. Any [senator or] representative refusing to take said oath or affirmation shall be deemed to have vacated his or her office, and any member convicted of having violated his or her oath or affirmation shall be deemed guilty of perjury, and be forever disqualified from holding any office of trust or profit in this state.

Section 16. [Senators and r] Representatives shall receive from the state treasury as salary such sums as are provided by law. No law fixing the compensation of members of the general assembly shall become effective until the first day of the regular session of the general assembly next following the session at which the law was enacted. Upon certification by the president and secretary of the [senate and by the speaker and chief clerk of the house of representatives] General Assembly as to the [respective] members thereof, the state comptroller shall audit and the state treasurer shall pay such compensation without legislative enactment. Until otherwise provided by law [senators and] representatives shall receive one dollar for every ten miles traveled in going to and returning from their place of meeting while the legislature is in session, on the most usual route.

Until otherwise provided by law, each [senator or] representative shall be reimbursed from the state treasury for the actual and necessary expenses incurred by him or her in attending sessions of the general assembly in the sum of ten dollars ($10.00) per day for each day on which the journal of the [senate or house respectively] General Assembly shows the presence of such [senator or] representative. Upon certification by the president and secretary of the [senate and by the speaker and chief clerk of the house of representatives] General Assembly as to the [respective] members thereof, the state comptroller shall approve and the state treasurer shall pay monthly such expense allowance without legislative enactment.

Section 17. Until otherwise provided by law, the [house of representatives shall not employ more than one hundred twenty-five and the senate] General Assembly shall not employ more than [seventy-five] three hundred employees elective, appointive or any other at any time during any session.

Section 18. [Each house] The General Assembly shall appoint its [own] officers; shall be sole judge of the qualifications, election and returns of its [own] members; may determine the rules of its own proceedings, except as herein provided; may arrest and punish by fine not exceeding three hundred dollars, or imprisonment in a county jail not exceeding ten days, or both, any person not a member, who shall be guilty of disrespect to the [house] General Assembly by any disorderly or contemptuous behavior in its presence during its sessions; may punish its members for disorderly conduct; and, with the concurrence of two-thirds of all members elect, may expel a member; but no member shall be expelled a second time for the same cause.

Section 19. (a) [Senators and r] Representatives shall, in all cases except treason, felony, offenses under this Article, or breach of the peace, be privileged from arrest during the session of the general assembly, and for the fifteen days next before the commencement and after the termination of each session; and they shall not be questioned for any speech or debate in [either house] the General Assembly in any other place.

(b) Legislative records shall be public records and subject to generally applicable state laws governing public access to public records, including the Sunshine Law. Legislative records include, but are not limited to, all records, in whatever form or format, of the official acts of the general assembly, of the official acts of legislative committees, of the official acts of members of the general assembly, of individual legislators, their employees and staff, of the conduct of legislative business and all records that are created, stored or distributed through legislative branch facilities, equipment or mechanisms, including electronic. Each member of the general assembly is the custodian of legislative records under the custody and control of the member, their employees and staff. The [chief clerk of the house or the] secretary of the General Assembly [senate are] is the custodian[s] for all other legislative records relating to the [house and the senate, respectively] General Assembly.

(c) Legislative proceedings, including committee proceedings, shall be public meetings subject to generally applicable law governing public access to public meetings, including the Sunshine Law. Open public meetings of legislative proceedings shall be subject to recording by citizens, so long as the proceedings are not materially disrupted.

Section 20(a). The general assembly shall adjourn at midnight on May thirtieth until the first Wednesday after the first Monday of January of the following year, unless it has adjourned prior thereto. All bills in [either house] remaining on the calendar after 6:00 p.m. on the first Friday following the second Monday in May are tabled. The period between the first Friday following the second Monday in May and May thirtieth shall be devoted to the enrolling, engrossing, and the signing in open session by officers of the [respective houses] General Assembly of bills passed prior to 6:00 p.m. on the first Friday following the second Monday in May.

The general assembly shall automatically stand adjourned sine die at 6:00 p.m. on the sixtieth calendar day after the date of its convening in special session unless it has adjourned sine die prior thereto.

Section 20(b). Upon the filing with the secretary of state of a petition stating the purpose for which the session is to be called and signed by [three-fourths] a majority of the members of the [senate and three-fourths of the members of the house of representatives] General Assembly, the president [pro tem of the senate and the speaker of the house] of the General Assembly shall by [joint] proclamation convene the general assembly in special session. The proclamation shall state specifically each matter contained in the petition on which action is deemed necessary. No appropriation bill shall be considered in a special session convened pursuant to this section if in that year the general assembly has not passed the operating budget in compliance with Section 25 of this article.

The general assembly shall automatically stand adjourned sine die at 6:00 p.m. on the thirtieth calendar day after the date of its convening in special session under this section unless it has adjourned sine die prior thereto.

Section 20(d). If any provision of sections 1, 2, 3, 4, 7, 8, 12, 13, 15, 16, 17, 18, 19, [or] 20(a), 20(b), 20(c), 21, 22, 24, 25, 26, 29, 30, 31, 32, 34, 35, or 45 or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

Section 21. The style of the laws of this state shall be: "Be it enacted by the General Assembly of the State of Missouri, as follows." No law shall be passed except by bill, and no bill shall be so amended in its passage through [either house] the General Assembly as to change its original purpose. [Bills may originate in either house and may be amended or rejected by the other.] Every bill shall be read by title on three different days [in each house].

Section 22. Every bill shall be referred to a committee of the [house in which it is pending] General Assembly.

After it has been referred to a committee, one-third of the elected members of the [respective houses] General Assembly shall have power to relieve a committee of further consideration of a bill and place it on the calendar for consideration. Each committee shall keep such record of its proceedings as is required by rule of the [respective houses] General Assembly and this record and the recorded vote of the members of the committee shall be filed with all reports on bills.

[Each house of the] The general assembly may provide by rule for such committees [of that house] as it deems necessary to meet to consider bills or to perform any other necessary legislative function during the interim between the session ending on the thirtieth day of May and the session commencing on the first Wednesday after the first Monday of January.

Section 24. No bill shall be considered for final passage [in either house] until it, with all amendments thereto, has been printed and copies distributed among the members. [If a bill passed by either house be returned thereto, amended by the other, the house to which

the same is returned shall cause the amendment or amendments so received to be printed and copies distributed among the members before final action on such amendments.]

Section 25. No bill other than an appropriation bill shall be introduced in [either house] the General Assembly after the sixtieth legislative day unless consented to by a majority of the elected members [of each house] or the governor shall request a consideration of the proposed legislation by a special message. No appropriation bill shall be taken up for consideration after 6:00 p.m. on the first Friday following the first Monday in May of each year.

Section 26. [Each house] The General Assembly shall publish a journal of its proceedings. The yeas and nays on any question shall be taken and entered on the journal on the motion of any five members. Whenever the yeas and nays are demanded, or required by this constitution, the whole list of members shall be called and the names of the members voting yea and nay and the absentees shall be entered in the journal.

[Section 27. No amendments to bills by one house shall be concurred in by the other, nor shall reports of committees of conference be adopted in either house, nor shall a bill be finally passed, unless a vote by yeas and nays be taken and a majority of the members elected to each house be recorded as voting favorably.]

Section 29. No law passed by the general assembly, except an appropriation act, shall take effect until ninety days after the adjournment of the session in either odd-numbered or even-numbered years at which it was enacted. However, in case of an emergency which must be expressed in the preamble or in the body of the act, the general assembly by a two-thirds vote of the members [elected to each house], taken by yeas and nays may otherwise direct; and further except that, if the general assembly recesses for thirty days or more it may prescribe by [joint] resolution that laws previously passed and not effective shall take effect ninety days from the beginning of the recess.

Section 30. No bill shall become a law until it is signed by the [presiding officer of each house] president of the General Assembly in open session, who first shall suspend all other business, declare that the bill shall now be read and that if no objection be made he or she will sign the same. If [in either house] any member shall object in writing to the signing of a bill, the objection shall be noted in the journal and annexed to the bill to be considered by the governor in connection therewith. When a bill has been signed, the secretary[, or the chief clerk, of the house] of the General Assembly [in which the bill originated] shall present the bill in person to the governor on the same day on which it was signed and enter the fact upon the journal.

Section 31. Every bill which shall have been passed by the General Assembly [house of representatives and the senate] shall be presented to and considered by the governor, and, within fifteen days after presentment, he shall return such bill to the [house in which it originated endorsed] General Assembly with his approval or accompanied by his objections. If the bill be approved by the governor it shall become a law. When the general assembly adjourns, or recesses for a period of thirty days or more, the governor shall return within forty-five days any bill to the office of the secretary of state with his approval or reasons for disapproval. If any bill shall not be returned by the governor within the time limits prescribed by this section it shall become law in like manner as if the governor had signed it.

Section 32. Every bill presented to the governor and returned with his objections shall stand as reconsidered in the [house to which it is returned] General Assembly. If the governor returns any bill with his or her objections on or after the fifth day before the last day upon which a session of the general assembly may consider bills, the general assembly shall automatically reconvene on the first Wednesday following the second Monday in September for a period not to exceed ten calendar days for the sole purpose of considering bills returned by the governor. The objections of the governor shall be entered upon the journal and the [house] General Assembly shall proceed to consider the question pending, which shall be in this form: "Shall the bill pass, the objections of the governor thereto notwithstanding?" The vote upon this question shall be taken by yeas and nays and if [two-thirds] a majority of the elected members of the [house] General Assembly vote in the affirmative the [presiding officer of that house] president of the General Assembly shall certify that fact on the roll, attesting the same by his or her signature[, and send the bill with the objections of the governor to the other house, in which like proceedings shall be had in relation thereto]. The bill thus certified shall be deposited in the office of the secretary of state as an authentic act and shall become a law.

Section 34. In the year 1949 and at least every ten years thereafter all general statute laws shall be revised, digested and promulgated as provided by law. No [senator or] representative shall receive any compensation in addition to his or her salary as a member of the general assembly for any services rendered in connection with said revision.

Section 35. There shall be a permanent [joint] committee on legislative research, selected by and from the members of [each house] the General Assembly as provided by law. The general assembly, by a majority vote of the elected members, may discharge any or all of the members of the committee at any time and select their successors. The committee may employ a staff as provided by law. The committee shall meet when necessary to perform the duties, advisory to the general assembly, assigned to it by law. The members of the committee shall receive no compensation in addition to their salary as members of the general assembly, but may receive their necessary expenses while attending the meetings of the committee.

Section 45. When the number of representatives to which the state is entitled in the House of the Congress of the United States under the census of 1950 and each census thereafter is certified to the governor, the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled, which districts shall be composed of contiguous territory as compact and as nearly equal in population as may be. Beginning with the general election of two thousand and twenty-four, the boundaries established for congressional districts under this Constitution shall also serve as the boundaries for legislative districts for purposes of electing members of the General Assembly. If the Congress of the United States enacts legislation giving states the right to elect members of the House of the Congress of the United States from multiple-member districts or at-large, the state of Missouri shall elect its members at-large, if given a choice of the two, or from multiple-member districts, if that is the only choice, with those multiple-member districts composed of contiguous territory as compact and as nearly equal in population as may be. In either case, the General Assembly shall by law continue to divide the state into a number of districts corresponding with the number of representatives to which the state is entitled in the House of Congress, composed according to the guidelines provided in this section and those districts shall continue to serve as the legislative districts to be used in electing members of the General Assembly and for electing delegates to a convention to revise and amend the constitution of Missouri if voters should vote in favor of such a convention.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-019)

Subject

Initiative petition from Winston Apple regarding a proposed constitutional amendment to Article III. (Received March 9, 2021)

Date

March 29, 2021

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated no fiscal impact.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal should not impact their office.

Officials from the **Missouri House of Representatives** indicated they assume no fiscal impact. They are assuming that their appropriations (current budget) will still be used to cover the cost of the proposed 163 member General Assembly, as it does for the House members now. They also assume that any cost savings would be shown in the Senate response.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would not have a fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal should not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated as written, they assume a reduction of 17 Senators as of January 2025. Additionally, the fiscal note implies that by January 2027 the remaining 17 Senators are eliminated, and further dissolves the Senate entirely creating a unicameral legislature. As it is written, it is unclear if the Senate would be fully dissolved by 2025 or 2027. If passed, the General Assembly will consist of 163 Representatives. A detailed analysis of the cost savings follows:

Initiative Petition 2022-019 v2 to Amend Article III of the Missouri Constitution

Dissolves the Senate Entirely by January 2027
General Assembly will consist of 20 members from each Congressional Dist and 3 at large members (20*8 + 3 = 163 members)

Estimated savings as of January 2025
Reduces the number of Senators by 17

EXPENSE	Appropriation	EST SAVINGS PER EACH	TOTAL EST SAVINGS X 17	Notes
Senators' Salary	0003	(35,914.80)	(610,551.60)	Statutory Appropriation - current legislator salary $1,496.45 X 24 pay periods
Senators' Mileage	0004	(2,244.60)	(38,158.20)	Statutory Appropriation - average total miles of current senators used in calculation 261 X .43 X 20 weeks
Senators' Per Diem	0005	(8,344.00)	(141,848.00)	Statutory Appropriation - current daily per diem $119.20 X 70 est total session days
Senator's Annual Budget	9801	(123,458.00)	(2,098,786.00)	Cost for Senators annual budget to pay personnel, mailings, district travel and office expenses
SAVINGS AS OF 1/1/2025:		***(169,961.40)***	***(2,889,343.80)***	

Estimated savings as of January 2027
Eliminates the remaining 17 Senators/Representatives At-Large and dissolves the Senate entirely

EXPENSE	Appropriation	TOTAL EST SAVINGS	Notes
Senators' Salary-0101	0003	(616,058.40)	Statutory Appropriation - remaining appropriation (1,226,610 - 610,551.60)
Senators' Mileage-0101	0004	(58,370.80)	Statutory Appropriation - remaining appropriation (96,529 - 38,158.20)
Senators' Per Diem-0101	0005	(164,252.00)	Statutory Appropriation - remaining appropriation (306,100 - 141,848)
Senate Contingent-0101	9801	(9,162,578.00)	Remaining appropriation (11,261,364 - 2,098,786)
Joint Contingent-0101	1052	(225,000.00)	Full appropriation savings
Senate Contingent-0535	4505	(40,000.00)	Full appropriation savings
SAVINGS AS OF 1/1/2027:		***(10,266,259.20)***	
TOTAL OVERALL SAVINGS:		***(13,155,603.00)***	

For Informational Use Only - FY2021 Senate Appropriation Amounts

Approp Name	Approp	Amount
SENATORS' SALARIES-0101	0003	1,226,610
SENATORS' MILEAGE-0101	0004	96,529
SENATORS' PER DIEM-0101	0005	306,100
JOINT CONTINGENT EXP E&E-0101	1052	225,000
SENATE CONTINGENT EXP-0101	9801	11,261,364
SENATE CONTINGENT EXP-0535	4505	40,000
		$ 13,155,603.00

Officials from the **Secretary of State's office** indicated this petition would change the composition of the General Assembly to one chamber, with representatives to be elected by congressional district and the three non-winners with the highest total votes being elected as at-large representatives. At each general election, voters would see a list of all representative candidates from their congressional district on their ballot, with the ability to rank their choices of at least three but possibly up to 10 candidates from the list. Additionally, voters shall be given the option to select between an all-party ballot, a single-party ballot, or a ballot containing only independent candidates. This consolidation may incur the following costs:

Reprogramming/Replacing voting machines: Voting machines in Missouri are currently programmed to accept only single-page ballots with a single vote per race – each of these machines would need to be reprogrammed to accept ranked-choice votes and provide for multiple-page ballots due to the potential for large numbers of candidates to file for General Assembly seats. Any machine that cannot be reprogrammed would need to be replaced with a new machine that does possess such capabilities. Either cost would be a new requirement that the state must assume under Article X, Section 21 of the Missouri Constitution.

As of the 2017 voting systems survey conducted by their office, local election authorities reported that they possessed 7,565 voting machines. The estimated cost for each new voting machine is $5,000. The total cost to the state will vary depending on the number of machines which are ready to accept ranked-choice votes or can be reprogrammed to do so. However, using total replacement of all machines as a maximum cost, this provision may result in a total impact to general revenue ranging from $0 up to $37,825,000.

Also, the separate ballots for each political party will create new ballot styles which must be coded into the machines. This will increase programming costs to the local election authorities by an unknown but possibly significant amount.

Postage Costs: mailing envelopes used to return absentee ballots are printed with business reply permits – pursuant to Section 115.285, RSMo., Local Election Authorities are reimbursed for these costs by their office at a current cost of $1.80 per envelope based on the current size and weight of the envelope and ballot; multiple-page ballots would increase these costs.

Ballot printing costs: Local election authorities bear the cost of printing ballots for each election – paying to print multiple page ballots would substantially increase printing costs. Additionally, each election authority will have an increased number of ballot styles to accommodate the separate ballots for each party, which would be reflected in the layout costs charged by their ballot vendor.

Due to situational variables, it is not possible to determine a concrete amount of fiscal impact to this measure (beyond the aforementioned machine replacements). However, the costs to the state and to local election authorities could be significant.

Officials from the **Office of the State Public Defender** indicated this initiative petition has no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated:

- Approximate printed general election ballots cost increase of ~$20,000.00***This is the only recurring cost per general election, the rest are one-time
- Approximate advertising for voter education cost increase of ~$500.00
- Approximate staff training cost increase of ~$1,000.00
- Approximate voting machine software upgrade cost increase of ~$10,000.00
- Approximate mapping updates cost increase of ~$500.00

Total estimated costs of $**32,000.00**. Only $12,000 one-time to upgrade, $20,000 every general election. No savings.

Officials from **Greene County** indicated it is estimated on an **annual basis to cost an additional $15,000** to conduct a ranked choice voting election in the County of Greene due to the additional software license fees that will need to be purchased to conduct it. It will also require a **one-time additional cost of $6,000** to purchase 2 new computers for the conduction of a ranked choice voting election. This does not include the individual programming costs that will likely increase for each election, as they cannot be faithfully estimated. This is due to the changing number of candidates running for each Missouri General Assembly legislative district seat in both the House and Senate that Greene County voters will be voting on in each election.

Estimated Cost to Conduct a November General Election:

Here's the difference in the layout and coding costs for this past November.

- **Non RCV** = Approximately $10,381.25 for layout, coding and audio.

- **RCV** = Approximately $11,234.00 for layout, coding and audio.

The additional costs for the November 2020 General election with a ranked choice voting model would have been an additional **$852.75** more.

It is difficult to provide a sound estimate regarding a ranked choice voting election, because it is completely contingent upon how many candidates there are for each race that will be ranked choice. The layout, coding, audio and expense for a race with two candidates and a write-in in a ranked choice vote election will become two races with four candidates and two write-ins, thereby increasing the cost.

This figure will begin to increase exponentially as additional candidates are added. For example, a race with three candidates and a write-in turns into three races with nine candidates and three write-ins.

Here is an example of how the ballot layout will change, which will require additional coding costs to allow for the ranked choice voting to take place.

State Representative

Candidate A

Candidate B

Candidate C

Write-in

Becomes…

State Representative Choice 1

Candidate A

Candidate B

Candidate C

Write-in

State Representative Choice 2

Candidate A

Candidate B

Candidate C

Write-in

State Representative Choice 3

Candidate A

Candidate B

Candidate C

Write-in

Officials from the **City of Kansas City** indicated this proposed amendment would have no fiscal impact on their city.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **St. Louis County Board of Elections** indicated they believe this could have a fiscal impact of anywhere from $0-50,000 (one-time costs) because it is unknown if they would need to pay for new software or to use open-sourced software to conduct ranked-choice voting.

Officials from the **Platte County Board of Elections** indicated no fiscal impact to their Board.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, University of Missouri, St. Louis Community College,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Fiscal Note Summary

The General Assembly is estimated to have approximately $13.2 million in annual savings by 2027. State and local governments could incur significant election-related costs of $18,000 to $38 million in one-time costs, and ongoing costs of at least $15,000 annually and at least $21,000 for each general election.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

March 9, 2021

RECEIVED
MAR 0 9 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed constitutional amendment to Article III, version 1 (2022-018)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Winston Apple on March 9, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

22-018

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 MAR -9 AM 8:15
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article III of the Constitution is revised by repealing Sections 9, 10, and 14, and amending Sections 3, 4, 5, 6, 7, 11, 13, 20(d), and 45 to read as follows:

Section 3. [(a)] Upon the convening of the one-hundred-and-third general assembly, the [The] house of representatives shall consist of [one hundred sixty-three members] twenty members from each congressional district and three at-large members elected at each general election [and redistricted as provided in this section] beginning with the general election to be held in the year two thousand and twenty-four.

[(b) The house independent bipartisan citizens commission shall redistrict the house of representatives using the following methods, listed in order of priority:

(1) Districts shall be as nearly equal as practicable in population, and shall be drawn on the basis of one person, one vote. Districts are as nearly equal as practicable in population if no district deviates by more than one percent from the ideal population of the district, as measured by dividing the number of districts into the statewide population data being used, except that a district may deviate by up to three percent if necessary to follow political subdivision lines consistent with subdivision (4) of this subsection;

(2) Districts shall be established in a manner so as to comply with all requirements of the United States Constitution and applicable federal laws, including, but not limited to, the Voting Rights Act of 1965 (as amended). The following principles shall take precedence over any other part of this constitution: no district shall be drawn in a manner which results in a denial or abridgment of the right of any citizen of the United States to vote on account of race or color; and no district shall be drawn such that members of any community of citizens protected by the preceding clause have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice;

(3) Subject to the requirements of subdivisions (1) and (2) of this subsection, districts shall be composed of contiguous territory as compact as may be. Areas which meet only at the points of adjoining corners are not contiguous. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries;

(4) To the extent consistent with subdivisions (1) to (3) of this subsection, communities shall be preserved. Districts shall satisfy this requirement if district lines follow political subdivision lines to the extent possible, using the following criteria, in order of priority. First, each county shall wholly contain as many districts as its population allows. Second, if a county wholly contains one or more districts, the remaining population shall be wholly joined in a single district made up of population from outside the county. If a county does not wholly contain a district, then no more than two segments of a county shall be combined with an adjoining county. Third, split counties and county segments, defined as any part of the county that is in a district not wholly within that county, shall each be as few as possible. Fourth, as few municipal lines shall be crossed as possible;

(5) Districts shall be drawn in a manner that achieves both partisan fairness and, secondarily, competitiveness, but the standards established by subdivisions (1) to (4) of this subsection shall take precedence over partisan fairness and competitiveness. "Partisan fairness" means that parties shall be able to translate their popular support into legislative representation with approximately equal efficiency. "Competitiveness" means that parties' legislative representation shall be substantially and similarly responsive to shifts in the electorate's preferences.

To this end, the average electoral performance of the two political parties receiving the most votes in the three preceding general elections for governor, for United States Senate, and for President of the United States shall be calculated. This index shall be defined as the total votes received by each party in the three preceding general elections for governor, for United States Senate, and for President of the United States, divided by the total votes cast for both parties in these elections. Using this index, the total number of wasted votes for each party, summing across all of the districts in the plan shall be calculated. "Wasted votes" are votes cast for a losing candidate or for a winning candidate in excess of the threshold needed for victory. In any redistricting plan and map of the proposed districts, the difference between the two parties' total wasted votes, divided by the total votes cast for the two parties, shall not exceed fifteen percent.

To promote competitiveness, the electoral performance index shall be used to simulate elections in which the hypothetical statewide vote shifts by one percent, two percent, three percent, four percent, and five percent in favor of each party. The vote in each individual district shall be assumed to shift by the same amount as the statewide vote. In each of these simulated elections, the difference between the two parties' total wasted votes, divided by the total votes cast for the two parties, shall not exceed fifteen percent.

(c) Within sixty days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a redistricting plan has been invalidated by a court of competent jurisdiction, within sixty days that such a ruling has been made, the state committee and the congressional district committees of each of the two political parties casting the highest vote for governor at the last preceding general election shall meet and the members of each committee shall nominate, by a majority vote of the elected members of the committee present, provided that a majority of the elected members is present, members of their party, residents in that district, in the case of a congressional district committee, as nominees for the house independent bipartisan citizens commission. No party shall select more than one nominee from any one state legislative district. The congressional district committees shall each submit to the governor their list of two elected nominees. The state committees shall each submit to the governor their list of five elected nominees. Within thirty days thereafter, the governor shall appoint a house independent bipartisan citizens commission consisting of one nominee from each list submitted by each congressional district committee and two nominees from each list submitted by each state committee to redistrict the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts. No person shall be appointed to both the house independent bipartisan citizens commission and the senate independent bipartisan citizens commission during the same redistricting cycle.

If any committee fails to submit a list within such time, the governor shall appoint a member of his or her own choice from the political party of the committee failing to submit a list, provided that in the case of a congressional district committee failing to submit a list, the person appointed to the commission by the governor shall reside in the congressional district of such committee.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final redistricting plan.

For the purposes of this Article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

(d) The commissioners so selected shall, on the fifteenth day, excluding Sundays and state holidays, after all members have been appointed, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

(e) Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative redistricting plan and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons. The commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map.

(f) Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

(g) After the final statement is filed, members of the house of representatives shall be elected according to such districts until a new redistricting plan is made as provided in this section, except that if the final statement is not filed within six months of the time fixed for the appointment of the commission, the commission shall stand discharged and the house of representatives shall be redistricted using the same methods and criteria as described in subsection (b) of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its redistricting plan and map with the secretary of state within ninety days of the date of the discharge of the house independent bipartisan citizens commission. The judicial commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map. Thereafter, members of the house of representatives shall be elected according to such districts until a redistricting plan is made as provided in this section.

(h) Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his or her actual and necessary expenses incurred while serving as a member of the commission.

(i) No redistricting plan shall be subject to the referendum.

(j) Any action expressly or implicitly alleging that a redistricting plan violates this Constitution, federal law, or the United States Constitution shall be filed in the circuit court of Cole County and shall name the body that approved the challenged redistricting plan as a defendant. Only an eligible Missouri voter who sustains an individual injury by virtue of residing in a district that exhibits the alleged violation, and whose injury is remedied by a differently drawn district, shall have standing. If the court renders a judgment in which it finds that a completed redistricting plan exhibits the alleged violation, its judgment shall adjust only those districts, and only those parts of district boundaries, necessary to bring the map into compliance. The supreme court shall have exclusive appellate jurisdiction upon the filing of a notice of appeal within ten days after the judgment has become final.**]**

Section 4. Each representative shall be twenty-four years of age, and next before the day of <u>her or</u> his election shall have been a qualified voter for two years and<u>, with the exception of at-large representatives,</u> a resident of the county or district which <u>she or</u> he is chosen to represent for one year, if such county or district shall have been so long established, and if not, then of the county or district from which the same shall have been taken.

Section 5. The senate shall consist of thirty-four members elected by the qualified voters of the **[**senatorial districts**]** <u>state of Missouri</u> for a term of four years. **[**Senatorial districts shall be apportioned as provided for in Article III, Section 7.**]**

Section 6. Each senator shall be thirty years of age, and next before the day of his <u>or her</u> election shall have been a qualified voter of the state for three years **[**and a resident of the district which he is chosen to represent for one year, if such district shall have been so long established, and if not, then of the district or districts from which the same shall have been taken**]**.

Section 7. **[**(a) Within sixty days after the population of this state is reported to the President for each decennial census of the United States, or within sixty days after a redistricting plan has been invalidated by a court of competent jurisdiction, the state committee and the congressional district committees of each of the two political parties casting the highest vote for governor at the last preceding general election shall meet and the members of each committee shall nominate, by a majority vote of the elected members of the committee present, provided that a majority of the elected members is present, members of their party, residents in that district, in the case of a congressional district committee, as nominees for the senate independent bipartisan citizens commission. No party shall select more than one nominee from any one state legislative district. The congressional district committees shall each submit to the governor their list of two elected nominees. The state committees shall each submit to the governor their list of five elected nominees. Within thirty days thereafter the governor shall appoint a senate independent bipartisan citizens commission consisting of two nominees from each list submitted by each state committee and one nominee from each list submitted by each congressional district committee, to redistrict the thirty-four senatorial districts and to establish the numbers and boundaries of said districts. No person shall be appointed to both the house independent bipartisan citizens commission and the senate independent bipartisan citizens commission during the same redistricting cycle.

If any committee fails to submit a list within such time, the governor shall appoint a member of his or her own choice from the political party of the committee failing to submit a list, provided that in the case of a congressional district committee failing to submit a list, the person appointed to the commission by the governor shall reside in the congressional district of such committee.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final redistricting plan.

(b) The commissioners so selected shall, on the fifteenth day, excluding Sundays and state holidays, after all members have been appointed, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

(c) The senate independent bipartisan citizens commission shall redistrict the senate using the same methods and criteria as those required by subsection (b), section 3 of this Article for the redistricting of the house of representatives.

(d) Not later than five months after the appointment of the senate independent bipartisan citizens commission, the commission shall file with the secretary of state a tentative redistricting plan and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons. The commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map.

(e) Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

(f) After the final statement is filed, senators shall be elected according to such districts until a new redistricting plan is made as provided in this section, except that if the final statement is not filed within six months of the time fixed for the appointment of the commission, the commission shall stand discharged and the senate shall be redistricted using the same methods and criteria as described in subsection (b) of section 3 of this Article by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its redistricting plan and map with the secretary of state within ninety days of the date of the discharge of the senate independent bipartisan citizens commission. The judicial commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map. Thereafter, senators shall be elected according to such districts until a redistricting plan is made as provided in this section.

(g) Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his or her actual and necessary expenses incurred while serving as a member of the commission.

(h) No redistricting plan shall be subject to the referendum.

(i) Any action expressly or implicitly alleging that a redistricting plan violates this Constitution, federal law, or the United States Constitution shall be filed in the circuit court of Cole County and shall name the body that approved the challenged redistricting plan as a defendant. Only an eligible Missouri voter who sustains an individual injury by virtue of residing in a district that exhibits the alleged violation, and whose injury is remedied by a differently drawn district, shall have standing. If the court renders a judgment in which it finds that a completed redistricting plan exhibits the alleged violation, its judgment shall adjust only those districts, and only those parts of district boundaries, necessary to bring the map into compliance. The supreme court shall have exclusive appellate jurisdiction upon the filing of a notice of appeal within ten days after the judgment has become final.]

(a) Beginning with the election of senators and representatives to be held in the year two thousand and twenty-four there shall be no primary election for those offices. For the general election, all candidates who file to run, and are qualified to run, for the house of representatives will be listed on the ballot in the congressional district in which they reside, candidates for both senator and representative shall be grouped on the ballot by political party affiliation. Independent candidates shall be grouped together on the ballot.

(b) General elections shall be carried out using a system of ranked choice voting under which each voter shall be able to rank a minimum of three candidates for senator and a minimum of three candidates for representative in order of preference. If feasible, the ballot shall permit voters to rank up to ten candidates for each office, or as close to that number as feasible. Voters shall be able to request a general ballot listing all of the candidates for all political parties and all independent candidates, a single-party ballot listing only the candidates of a single political party, or a ballot listing only independent candidates.

(c) A number of spaces equal to the number of choices voters are able to rank shall be provided to write in the names of candidates not appearing on the ballot. Write-in votes may be cast for candidates for the house of representatives who are on the ballot in congressional districts other than a voter's congressional district. Those write-in votes from other districts will not be counted as part of the process of determining which candidates are elected to represent each congressional district in the house of representatives but shall be utilized for purposes of determining which candidates are elected as at-large representatives, and shall be added to the cumulative vote total of candidates who are elected to the house of representatives to determine the value of each representative's weighted vote.

(d) The ballot shall be simple and easy to understand, with instructions necessary to enable voters to successfully cast ballots under the system.

(e) The results of each general election shall be tabulated in two rounds.

(f) In the first round of tabulation, only first-choice votes shall be counted. The seventeen candidates for the senate with the most first choice votes are elected. For candidates for the house of representatives, separate vote totals shall be calculated and recorded for "in-district votes" (which are votes for candidates residing in each congressional district cast by the voters of that district) and for "cumulative votes" (which are the sum of in-district votes plus write-in votes from voters in districts other than the district in which a candidate resides). The twenty candidates with the most in-district votes are elected to represent each congressional district. The three candidates with the most cumulative votes, who were not elected to represent the district in which they reside shall serve as at-large representatives.

(g) Ballots with a vote for a winning candidate for both offices as the voter's first choice are then considered completed and set aside. For each ballot that did not include a winning candidate for either one, or both, offices as a voter's first choice a single vote shall be added to the total number of cumulative votes of each senator or representative who was elected and is the highest remaining choice on each such ballot.

(h) With the exception of votes taken to override a governor's veto, for which each senator and representative will cast a single non-weighted vote, candidates who are elected to the general assembly shall have weighted votes in all matters before the general assembly based on the total number of cumulative votes each member received. The value of each representative's weighted vote shall be determined by dividing the number of cumulative votes received by each representative by the number of cumulative votes received by the representative with the lowest number of cumulative votes. The value of each senator's weighted vote shall be determined by dividing the number of cumulative votes received by each senator by the number of cumulative votes received by the senator with the lowest number of cumulative votes.

(i) If a voter inadvertently casts a vote for more than a single candidate among any of their ranked choices, each candidate listed will be given the appropriate fraction of a whole vote. If a voter inadvertently fails to fill in a choice among their ranked choices but has additional lower-ranked choices, the missing ranked choice will be ignored. A ballot with no remaining choices for candidates who were elected is an "exhausted ballot" and shall be set aside.

(j) Officials shall determine a random selection algorithm, prior to tabulation, to resolve ties between candidates for the last remaining seat, or seats, in the General Assembly or to determine which members are elected to the senate.

(k) The candidates of all political parties that had at least one candidate for the general assembly or statewide office who received cumulative votes in the preceding election totaling at least one percent of the votes cast for governor at the preceding gubernatorial election shall be listed on the ballot.

(l) A political party having no candidate for the general assembly or statewide office receiving cumulative votes in the preceding general election totaling at least one percent of the total vote in the preceding gubernatorial election, may qualify for a place on the ballot for the general assembly in each congressional district by presenting petitions signed by one per cent of the legal voters in that congressional district. An independent candidate may qualify for a place on the ballot in a congressional district by presenting petitions signed by one-half of one percent of the legal voters in the congressional district in which they reside. The number of "legal voters" is equal to, and determined by, the total vote for governor in the preceding gubernatorial election. Said petitions are to be delivered to the secretary of state no later than one hundred and twenty days preceding the general election.

(m) The signatures on petitions submitted by independent candidates and political parties shall be subject to verification according to the procedures in the code of state regulations for independent candidate petitions in force at the time the petitions are submitted.

[Section 9. Until the convening of the Seventy-fourth General Assembly the House of Representatives shall consist of one hundred sixty-three members elected from the one hundred sixty-three representative districts, as they existed January 1, 1965.]

[Section 10. The last decennial census of the United States shall be used in apportioning representatives and determining the population of senatorial and representative districts. Such districts may be altered from time to time as public convenience may require.]

Section 11. The first election of senators and representatives under this constitution, shall be held at the general election in the year one thousand nine hundred and forty-six when the whole number of representatives and the senators from the districts having even numbers, who shall compose the first class, shall be elected, and two years thereafter the whole number of representatives and the senators from districts having odd numbers, who shall compose the second class, shall be elected, and so on at each succeeding general election. Beginning with the general election to be held in the year two thousand and twenty-four senators will continue to be divided into two classes, with senators from each class, as the term of each class expires, to be elected at large on a state-wide basis. In the one-hundred-and-third general assembly only, the total number of votes received in the general election held in two thousand and twenty-two by each senator who was elected in that election will be used as her or his cumulative vote total for purposes of determining the value of each senator's weighted vote.

Section 13. If any senator or representative removes her or his residence from the **[**district or county for which he was elected, his**]** state of Missouri, their office shall thereby be vacated. If any representative removes her or his residence from the district from which they were elected, they may serve out their term as long as they continue to reside in Missouri.

[Section 14. Writs of election to fill vacancies in either house of the general assembly shall be issued by the governor.]

Section 20(d). If any provision of sections 2, 3, 4, 5, 6, 7, 11, 13, 19, **[**or**]** 20(c), 20(d) or 45 or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

Section 45. When the number of representatives to which the state is entitled in the House of the Congress of the United States under the census of 1950 and each census thereafter is certified to the governor, the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled, which districts shall be composed of contiguous territory as compact and as nearly equal in population as may be. Beginning with the general election to be held in two thousand and twenty-four, the boundaries established for congressional districts under this Constitution shall also serve as the boundaries for legislative districts for purposes of electing members of the house of representatives. If the Congress of the United States enacts legislation giving states the right to elect members of the House of the Congress of the United States from multiple-member districts or at-large, the state of Missouri shall elect its members at-large, if given a choice of the two, or from multiple-member districts, if that is the only choice, with those multiple-member districts composed of contiguous territory as compact and as nearly equal in population as may be. In either case, the general assembly shall by law continue to divide the state into a number of districts corresponding with the number of representatives to which the state is entitled in the House of Congress, composed according to the guidelines provided in this section and those districts shall continue to serve as senatorial districts and legislative districts to be used in electing members of the general assembly and for electing delegates to a convention to revise and amend the constitution of Missouri if voters should vote in favor of such a convention.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-018)

Subject

Initiative petition from Winston Apple regarding a proposed constitutional amendment to Article III. (Received March 9, 2021)

Date

March 29, 2021

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated no fiscal impact.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal should not impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal should not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this petition would change the composition of the General Assembly and cause representatives to be elected by congressional district using ranked-choice voting and senators from the state at-large. At each general election, voters would see a list of all representative candidates from their congressional district on their ballot and all senator candidates for the state, with the ability to rank their choices of at least three but possibly up to 10 candidates from each list. Additionally, voters shall be given the option to select between an all-party ballot, a single-party ballot, or a ballot containing only independent candidates. This consolidation may incur the following costs:

Reprogramming/Replacing voting machines: Voting machines in Missouri are currently programmed to accept only single-page ballots with a single vote per race – each of these machines would need to be reprogrammed to accept ranked-choice votes and provide for multiple-page ballots due to the potential for large numbers of candidates to file for General Assembly seats. Any machine that cannot be reprogrammed would need to be replaced with a new machine that does possess such capabilities. Either cost would be a new requirement that the state must assume under Article X, Section 21 of the Missouri Constitution.

As of the 2017 voting systems survey conducted by their office, local election authorities reported that they possessed 7,565 voting machines. The estimated cost for each new voting machine is $5,000. The total cost to the state will vary depending on the number of machines which are ready to accept ranked-choice votes or can be reprogrammed to do so. However, using total replacement of all machines as a maximum cost, this provision may result in a total impact to general revenue ranging from $0 up to $37,825,000.

Also, the separate ballots for each political party will create new ballot styles which must be coded into the machines. This will increase programming costs to the local election authorities by an unknown but possibly significant amount.

Postage Costs: mailing envelopes used to return absentee ballots are printed with business reply permits – pursuant to Section 115.285, RSMo., Local Election Authorities are reimbursed for these costs by their office at a current cost of $1.80 per envelope based on the current size and weight of the envelope and ballot; multiple-page ballots would increase these costs.

Ballot printing costs: Local election authorities bear the cost of printing ballots for each election – paying to print multiple page ballots would substantially increase printing costs. Additionally, each election authority will have an increased number of ballot styles to accommodate the separate ballots for each party, which would be reflected in the layout costs charged by their ballot vendor.

Due to situational variables, it is not possible to determine a concrete amount of fiscal impact to this measure (beyond the aforementioned machine replacements). However, the costs to the state and to local election authorities could be significant.

Officials from the **Office of the State Public Defender** indicated this initiative petition has no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated:

- Approximate printed general election ballots cost increase of ~$20,000.00***This is the only recurring cost per general election, the rest are one-time
- Approximate advertising for voter education cost increase of ~$500.00
- Approximate staff training cost increase of ~$1,000.00
- Approximate voting machine software upgrade cost increase of ~$10,000.00
- Approximate mapping updates cost increase of ~$500.00

Total estimated costs of $**32,000.00**. Only $12,000 one-time to upgrade, $20,000 every general election. No savings.

Officials from **Greene County** indicated it is estimated on an **annual basis to cost an additional $15,000** to conduct a ranked choice voting election in the County of Greene due to the additional software license fees that will need to be purchased to conduct it. It will also require a **one-time additional cost of $6,000** to purchase 2 new computers for the conduction of a ranked choice voting election. This does not include the individual programming costs that will likely increase for each election, as they cannot be faithfully estimated. This is due to the changing number of candidates running for each Missouri General Assembly legislative district seat in both the House and Senate that Greene County voters will be voting on in each election.

Estimated Cost to Conduct a November General Election:

Here's the difference in the layout and coding costs for this past November.

- **Non RCV** = Approximately $10,381.25 for layout, coding and audio.

- **RCV** = Approximately $11,234.00 for layout, coding and audio.

The additional costs for the November 2020 General election with a ranked choice voting model would have been an additional **$852.75** more.

It is difficult to provide a sound estimate regarding a ranked choice voting election, because it is completely contingent upon how many candidates there are for each race that will be ranked choice. The layout, coding, audio and expense for a race with two candidates and a write-in in a ranked choice vote election will become two races with four candidates and two write-ins, thereby increasing the cost.

This figure will begin to increase exponentially as additional candidates are added. For example, a race with three candidates and a write-in turns into three races with nine candidates and three write-ins.

Here is an example of how the ballot layout will change, which will require additional coding costs to allow for the ranked choice voting to take place.

State Representative

Candidate A

Candidate B

Candidate C

Write-in

Becomes…

State Representative Choice 1

Candidate A

Candidate B

Candidate C

Write-in

State Representative Choice 2

Candidate A

Candidate B

Candidate C

Write-in

State Representative Choice 3

Candidate A

Candidate B

Candidate C

Write-in

Officials from the **City of Kansas City** indicated this proposed amendment would have no fiscal impact on their city.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **St. Louis County Board of Elections** indicated they believe this could have a fiscal impact of anywhere from $0-50,000 (one-time costs) because it is unknown if they would need to pay for new software or to use open-sourced software to conduct ranked-choice voting.

Officials from the **Platte County Board of Elections** indicated no fiscal impact to their Board.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, University of Missouri, St. Louis Community College,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,**

the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Fiscal Note Summary

State and local governments could incur significant election-related costs of $18,000 to $38 million in one-time costs, and ongoing costs of at least $15,000 annually and at least $21,000 for each general election.

RECEIVED
MAR U 4 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

March 4, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed constitutional amendment to Article I (2022-017)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Winston Apple on March 4, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

22-017

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 MAR -4 AM 8:50
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article I of the Constitution is revised by amending Section 1 to read as follows:

Section 1. (a) That all political power is vested in and derived from the people; that all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

(b) To ensure that the General Assembly of the State of Missouri reflects the will of the people as accurately as possible, every citizen of the state of Missouri who is eligible to vote may submit a proxy form to one member of the house of representatives and one senator naming them as their designated representatives.

(c) Each citizen who is eligible to vote may submit a new proxy form designating a different representative and/or senator as their representative(s) at any time, but no more than once in any calendar year for each office.

(d) With the exception of votes taken to override a governor's veto, for which each member will cast a single non-weighted vote, senators and representatives shall have weighted votes on all matters that come before the General Assembly, including votes in senate and house committees, based on the number of proxies they hold from citizens of the state of Missouri.

(e) The value of each representative's weighted vote, rounded to the nearest hundredth of a full vote, shall be determined by dividing the number of proxies held by each representative by the number of proxies held by the representative with the lowest number of proxies.

(f) The value of each senator's weighted vote, rounded to the nearest hundredth of a full vote, shall be determined by dividing the number of proxies held by each senator by the number of proxies held by the senator with the lowest number of proxies.

(g) The Secretary of State shall design a proxy form, a form for voters to use to change their proxies, and a form for citizens to submit cancelling their proxies if they move out of the state or are no longer eligible to vote, and make those forms available to citizens of the state of Missouri.

(h) The General Assembly shall pass appropriate legislation implementing a secure system for the transmission and recording of proxies and providing penalties for forging or falsifying proxies.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-017)

Subject

Initiative petition from Winston Apple regarding a proposed constitutional amendment to Article I. (Received March 4, 2021)

Date

March 24, 2021

Description

This proposal would amend Article I of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated no fiscal impact.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article I.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal should not impact their office.

Officials from the **Missouri House of Representatives** indicated the petition language does not fully describe the role of the House of Representatives and they do not know the administrative impact this could have on their operations. Therefore, the fiscal impact is unknown.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal should not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated this petition would authorize voters to submit proxy forms designating a representative and/or senator other than the one from the district in which they reside. While the petition language does not describe precisely how the system is to be implemented, leaving this task to the General Assembly, they assume that at least part of the administrative burden will fall upon their office as voter eligibility is directly related to the proxy process.

As only eligible registered voters are allowed to submit proxies, they assume that the proxy system will need to interface with the Missouri Centralized Voter Registration system (MCVR) to provide the most current possible information. They anticipate that some degree of programming costs will be incurred to implement this software change, as this would be beyond the scope of the established maintenance contract, but the exact cost is unknown and would be a one-time cost.

Additionally, as voters may submit, update, or cancel their proxy at any time during the year (including during the legislative session), it will be imperative that proxy requests are processed immediately so that up-to-the-minute weighted vote counts are available to the General Assembly. Therefore, they anticipate the need for at least one new Elections Specialist (full-time employee) FTE at a salary of $38,148 plus benefits beginning in (fiscal year) FY 2023.

In addition, each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated this petition has no fiscal impact to their county.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **St. Louis County** indicated in regards to this initiative petition, the fiscal impact, if any, is too remote or indirect to calculate.

Officials from the **City of Kansas City** indicated this proposed amendment would have no fiscal impact on their city.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities estimate no savings, one-time costs of an unknown amount, and ongoing costs of an unknown amount totaling at least $38,000 per year. Local governmental entities estimate no costs or savings.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

March 1, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
MAR 0 1 2021
STATE AUDITORS OFFICE

RE: Petition approval request from Chris Vas regarding a proposed constitutional amendment to Article V (2022-016)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Chris Vas on March 1, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County_____
Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 MAR -1 AM 9:02
SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP COD E	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do | do not | (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____ _____
Signature of Affiant (Person obtaining signatures) Address of Affiant

_____
(Printed Name of Affiant)

Subscribed and sworn to before me this _____ day of _____, A.D. 20___.

_____ Notary Public (Seal)
Signature of Notary

_____ My commission expires _____
Address of Notary

NOTICE: You are advised that in addition to the express amendments, repeals, and modifications as set forth below, this proposal may repeal, change or modify by implication, or may be construed by some persons to repeal, change or modify by implication, Article IV, Section 4, Article V, Sections 8, 19, 25(a), 25(c)(1), 25(c)(2), 25(d), 25(e), 25(f), and 25(g), and Article VIII, Section 23 of the Constitution of Missouri.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

To amend Sections 8, 19, 25(a), and 25(f), and enact Sections 1(a), 25(c)(3), 25(c)(4), 25(c)(5), and 25(c)(6) of Article V of the Constitution of Missouri to read as follows:

Section 1(a). 1. Judges of the supreme court and court of appeals shall be elected in elections conducted in the same manner as contested elections for governor.

2. The election of judges derives from the principle that all political power is vested in and derived from the people, and all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole, and further, that all courts of justice shall be open to every person without sale, denial, or delay. Judges shall therefore be accountable to the citizens of this state, this constitution, and the United States Constitution, and not beholden to any particular association or alliance of lawyers, judges, or interest groups. To accomplish this purpose, as set forth in sections 25(a) through (g), judges of the supreme court and court of appeals shall henceforth stand for election, and shall no longer be selected by the governor from nominations made by commissions of lawyers, judges, and the governor's chosen appointees. Voters in most circuits shall continue to have the ability to choose the method by which circuit and associate circuit judges are selected. Section 1(a) and sections 25(a) through (g) shall be known as the "Missouri Plan for Judicial Fairness and Accountability."

Section 8. [The judges of the supreme court shall elect from their number a] The chief justice [to] shall preside over the supreme court en banc, and the judges of the court of appeals in each district shall elect from their number a chief judge of the district. The terms of the [chief justice and] chief judges shall be fixed by the courts over which they preside. The chief justice of the supreme court shall be the chief administrative officer of the judicial system and, subject to the supervisory authority of the supreme court, shall supervise the administration of the courts of this state.

Section 19. Judges of the supreme court, including the chief justice, and judges and of the court of appeals shall be selected for terms of [twelve] six years, judges of the circuit courts for terms of six years, and associate circuit judges for terms of four years. No supreme court judge, supreme court chief justice, or court of appeals judge shall be elected to a particular judicial seat for more than two consecutive terms.

Section 25(a). Whenever a vacancy shall occur in the office of [judge of any of the following courts of this state, to wit: The supreme court, the court of appeals, or in the office of] circuit or associate circuit judge within the city of St. Louis and Jackson County, the governor shall fill such vacancy by appointing one of three persons possessing the qualifications for such office, who shall be nominated and whose names shall be submitted to the governor by a nonpartisan judicial commission established and organized as hereinafter provided. If the governor fails to appoint any of the nominees within sixty days after the list of nominees is submitted, the nonpartisan judicial commission making the nomination shall appoint one of the nominees to fill the vacancy. Whenever a vacancy shall occur in the office of judge of the supreme court, supreme court chief justice, or judge of the court of appeals, it shall be promptly filled under Article IV, Section 4 of this constitution and such appointee shall hold office for the remainder of the vacating judge's term.

Section 25(c)(1). Each judge appointed to the office of circuit or associate circuit judge pursuant to the provisions of sections 25(a)-(g) shall hold office for a term ending December thirty-first following the next general election after the expiration of twelve months in the office. Any circuit or associate circuit judge holding office, or elected thereto, at the time of the election by which the provisions of sections 25(a)-(g) become applicable to his office, shall, unless removed for cause, remain in office for the term to which he would have been entitled had the provisions of sections 25(a)-(g) not become applicable to his office. Not less than sixty days prior to the holding of the general election next preceding the expiration of his term of office, any circuit or associate circuit judge whose office is subject to the provisions of sections 25(a)-(g) may file in the office of the secretary of state a declaration of candidacy for election to succeed himself. If a declaration is not so filed [by any judge], the vacancy resulting from the expiration of his term of office shall be filled by appointment as herein provided. If such declaration is filed, his name shall be submitted at said next general election to the voters eligible to vote [within the state if his office is that of judge of the supreme court, or within the geographic jurisdiction limit of the district where he serves if his office is that of a judge of the court of appeals, or] within the circuit if his office is that of circuit judge, or within the county if his office is that of associate circuit judge on a separate judicial ballot, without party designation, reading:

"Shall Judge .....

(Here the name of the judge shall be inserted) of the .....

(Here the title of the court shall be inserted) be retained in office? Yes No

(Mark an "X" in the box you prefer.)" If a majority of those voting on the question vote against retaining him in office, upon the expiration of his term of office, a vacancy shall exist which shall be filled by appointment as provided in section 25(a); otherwise, said judge shall, unless removed for cause, remain in office for the number of years after December thirty-first following such election as is provided for the full term of such office, and at the expiration of each such term shall be eligible for retention in office by election in the manner here prescribed.

Section 25(c)(3). Judges of the court of appeals and supreme court shall be elected at the general election by the voters eligible to vote within the appellate district of the seat being elected as set forth in sections 25(c)(4) and 25(c)(5). Except as set forth in section 25(a), they shall hold office for a term expiring December thirty-first in the sixth year after their election. The provisions of sections 25(c)(1) and 25(c)(2) shall not apply to court of appeals or supreme court judges.

Section 25(c)(4). Supreme court judges shall be elected as follows. If the general assembly has provided by law for three appellate districts, a chief justice shall be elected at large and two supreme court judges shall be elected from each court of appeals district by the voters eligible to vote within that district, but if greater than three court of appeals districts are established or the geographical boundaries of the districts change such that the following divisions cannot be made, then elections for supreme court judges other than the chief justice shall be as established by law, or if no law timely establishes procedures for such elections, then elections for all supreme court seats shall be at large. Seats E1 and E2 shall be elected from the court of appeals district which includes the City of St. Louis. Seats S1 and S2 shall be elected from the court of appeals district which includes the City of

Springfield. Seats W1 and W2 shall be elected from the court of appeals district which includes the City of Kansas City. Seat CJ, the seat of the chief judge, shall be elected at large. Seats E1 and S1 shall be known as "Class 1" and elected in 2024 and every sixth successive year. Seats W1 and E2 shall be known as "Class 2" and elected in 2026 and every sixth successive year. Seats S2, W2, and the chief justice's at-large seat, CJ, shall be known as "Class 3" and elected in 2028 and every sixth successive year. A supreme court judge shall be a resident of the appellate district from which he or she is elected no later than the day of his or her election.

Section 25(c)(5). The following transition provisions shall apply: 1. Those supreme court judges holding office as of 5:00 p.m. on December 3, 2020, shall not be required to reside in any particular appellate district but on that date shall nonetheless be assigned the following seat designations for purposes of implementing elections and filling vacancies. The seat designations shall be assigned in the following order: CJ, W2, S2, E2, W1, S1, E1. First, beginning with Seat CJ, seats will be assigned to judges who have been retained by voters, starting with the judge most recently retained by voters. For judges retained at the same time, the judge having served the least time on the supreme court shall be assigned first. After all judges who have been retained have been assigned seats, judges who have been appointed shall be assigned, with judges most recently appointed to be assigned first. If all judges who have been retained or appointed have been assigned seats, and it appears that one or more supreme court seats was vacated on or before December 8, 2022, but remained unfilled by the end of that date, these vacancies will be immediately assigned a class and seat, using the order set forth in this section until all seats through Seat E1 are filled, and in assigning seat designations to vacancies, vacancies created by a judge whose last name is first in alphabetical order will have precedence. A seat held by any judge who lost a retention election in the 2022 general election shall be treated as vacant solely for purposes of assigning a class and seat under this transition provision, even though the judge shall hold office until December 31, 2022, and the seat shall be treated as vacant for purposes of section 25(a) on January 1, 2023, and thereafter filled under the provisions of that section.

2. Court of appeals judges who were last retained in the 2012 or 2014 general elections, or the successors to vacancies left by such judges, shall stand in the 2024 general election, court of appeals judges who were last retained in the 2016 or 2018 general elections, or the successors to vacancies left by such judges, shall stand in the 2026 general election, and court of appeals judges who were last retained in the 2020 or 2022 general elections, or the successors to vacancies left by such judges, shall stand in the 2028 general election. The candidate elected in each such election shall serve for the term prescribed by section 19, and every succeeding six years, a new election shall be held for that judicial office. Court of appeals judges first eligible for retention in the 2024 general election under the immediately prior version of section 25(c)(1), which was effective until the end of thirty days after the election adopting this section, shall stand for election in the 2024 general election. Any seat held by a court of appeals judge who loses a retention election in the 2022 general election shall be treated as vacant on January 1, 2023, and shall thereafter be filled under the provisions of section 25(a). Any law providing for additional court of appeals seats shall specify the first general election at which the seat shall be filled.

3. A supreme court or court of appeals vacancy that opened before the end of thirty days after the election adopting this section but was not yet filled as of that time and date shall be filled by the governor under the provisions of section 25(a).

4. The transition provisions of this section 25(c)(5) shall be severable from the remainder of section 25(a) through (g).

Section 25(c)(6). 1. Elections for the offices of judge of the supreme court and court of appeals shall be partisan elections.

2. All declarations for candidacy for the offices of judge of the supreme court and court of appeals shall be filed in the office of the secretary of state no later than 120 days before the primary election.

3. Political parties shall nominate party candidates for supreme court or court of appeals judge using the same procedures the laws provide for candidates for governor. Additionally, groups of voters may nominate independent candidates. The person so nominated by a group of voters may qualify as an independent candidate in the general election using the same procedures the laws provide for candidates for governor, except that the nominating petition must be signed by at least thirty thousand registered voters in the appellate district, or two percent of the voters who voted in the appellate district in the last election for governor, whichever is less. Notwithstanding the provisions of section 25(d), the governor shall have no power to appoint to any judicial office any person selected by the Appellate Judicial Commission.

4. Unless otherwise provided by law, primary and general elections for the offices of judge of the supreme court and court of appeals shall be held in the same manner as elections for governor. Contests to the results of an election under this section, whether on the basis of qualification, irregularity, or other cause, or for recount other than any automatic recount as may be provided by law, shall be heard and determined in the same manner as contested elections for governor, unless otherwise provided by law.

5. The provisions of this section 25(c)(6) shall be severable from the remainder of section 25(a) through (g).

Section 25(f). No judge of any court in this state, appointed or elected to or retained in office in the manner prescribed in sections 25(a)-(g), shall directly or indirectly make any contribution to or hold any office in a political party or organization, or take part in any political campaign[.] except as provided in sections 25(a)–(g). A judge or judicial candidate may announce his or her views on disputed legal or political issues provided that the judge or judicial candidate does not make pledges or promises to render specific rulings or decisions on pending litigation. Judicial candidates and judges who are judicial candidates shall be allowed to solicit, receive and make campaign contributions, and make and receive the benefit of campaign expenditures for their own campaigns as may be provided by law. Nothing herein shall preclude the application of laws or rules of the supreme court governing judicial participation in specific cases based on a judge's political activity with respect to the subject matter or parties. The provisions of this section 25(f) shall be severable from the remainder of section 25(a) through (g), except that nothing shall prohibit a candidate for the supreme court or court of appeals from making or accepting contributions to or taking part in his or her own political campaign.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-016)

Subject

Initiative petition from Chris Vas regarding a proposed constitutional amendment to Article V. (Received March 1, 2021)

Date

March 19, 2021

Description

This proposal would amend Article V of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, St. Louis County Board of Elections, Board of Election Commissioners City of St. Louis, Kansas City Board of Election Commissioners, Platte County Board of Elections, Jackson County Election Board,** and **Clay County Board of Election Commissioners**.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated no fiscal impact.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article V.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal should not impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal should not impact their office.

Officials from the **Office of State Courts Administrator** indicated in reference to this initiative petition, a proposed constitutional amendment to Article V, there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

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In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no impact to their office.

Officials from **Clay County** indicated since this adds to an already existing general election ballot and replaces the former retention procedure for these judges/justices, they see no fiscal impact to their county.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **St. Louis County** indicated the St. Louis County Board of Elections has determined that this initiative petition has no fiscal impact on their county.

Officials from the **City of Kansas City** indicated this proposed constitutional amendment would have no fiscal impact on their city.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from the **Metropolitan Community College** indicated no impact for their college.

Officials from the **St. Louis County Election Board** indicated this petition would not have any fiscal impact on their board.

Officials from the **Platte County Board of Elections** indicated they anticipate no fiscal impact to their board.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, University of Missouri, St. Louis Community College, Board of Election Commissioners City of St.**

Louis, Kansas City Board of Election Commissioners, Jackson County Election Board, and **Clay County Board of Election Commissioners**.

Fiscal Note Summary

State and local government entities estimate no costs or savings from this proposal.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 19, 2021

RECEIVED
FEB 19 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Matthew Vitale regarding a proposed statutory amendment to Chapter 407 (2022-015)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Matthew Vitale on February 19, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____

Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

Initiative Petition

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS	ZIP CODE	CONGR DIST.	NAME (Printed or Typed)
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Street Address of Affiant

_____
City, State, and Zip Code of Affiant

Subscribed and sworn to before me this day of _____, A.D. _____.

_____
Signature of Notary

_____
Address of Notary

Notary Public (Seal)

My commission expires _____

Be it enacted by the people of the State of Missouri:

Chapter 407, RSMo, is amended by adding three new sections, to be known as sections 407.652, 407.653, and 407.654, to read as follows:

407.652

1. For digital electronic equipment, and parts for such equipment, sold or used in the state of Missouri, an original equipment manufacturer shall make available, for purposes of diagnosis, maintenance, or repair, to any independent repair provider, or to the owner of digital electronic equipment manufactured by or on behalf of, or sold by, the original equipment manufacturer, on fair and reasonable terms:

(a) Documentation, parts, and tools, inclusive of any updates to information or embedded software.
(b) Diagnostic and repair information that is provided to an authorized repair provider available to an independent repair provider or owner in the same manner that such information is provided to the authorized repair provider without any additional charge.
(c) Service parts provided to an authorized repair provider available for purchase by an independent repair provider or owner. However, the manufacturer need not make accessible for purchase any service part no longer available to the manufacturer or the authorized repair provider.
(d) Diagnostic repair tools that incorporate the same diagnostic repair capabilities made available to an authorized repair provider available for purchase by an independent repair provider or owner.
(e) Any special documentation, tools, and parts needed to reset an electronic security lock or other security-related function when disabled in the course of diagnosis, maintenance, or repair of the equipment. Such documentation, tools, and parts may be made available through appropriate secure release systems.

2. Any original equipment manufacturer that sells any diagnostic, service, or repair documentation to any independent repair provider or to any owner in a format that is standardized with other original manufacturers, and on terms and conditions more favorable than the manner and the terms and conditions pursuant to which the authorized repair provider obtains the same diagnostic, service, or repair documentation, is prohibited from requiring any authorized repair provider to continue purchasing diagnostic, service, or repair documentation in a proprietary format, unless the proprietary format includes diagnostic, service, or repair documentation or functionality that is not available in such a standardized format.

3. Original equipment manufacturers of digital electronic equipment sold on or after January 1, 2024, in the state of Missouri are prohibited from designing or manufacturing digital electronic equipment in such a way as to prevent reasonable diagnostic or repair functions by an independent repair provider. Preventing reasonable diagnostic or repair functions includes permanently affixing a battery in a manner that makes it difficult or impossible to remove.

407.653

1. Nothing in this Act shall be construed to require an original equipment manufacturer to divulge a trade secret to an owner or an independent service provider except as necessary to provide documentation, parts, and tools on fair and reasonable terms.

2. No provision in this Act shall be construed to alter the terms of any arrangement in force between an authorized repair provider and an original equipment manufacturer, including, but not limited to, the performance or provision of warranty or recall repair work by an authorized repair provider on behalf of an original equipment manufacturer pursuant to such arrangement, except that any provision in such terms that purports to waive, avoid, restrict, or limit the original equipment manufacturer's obligations to comply with this section shall be void and unenforceable.

3. This section shall not require manufacturers or authorized repair providers to provide an owner or independent repair provider access to nondiagnostic and nonrepair information provided by a manufacturer to an authorized repair provider pursuant to the terms of an authorizing agreement.

407.654

1. An independent repair provider or owner that believes that a manufacturer has failed to provide information, including documentation, updates to firmware, safety and security corrections, diagnostics, documentation, or a tool required by this section, shall notify the manufacturer in writing and give the manufacturer thirty days from the time the manufacturer receives the complaint to cure the failure. If the manufacturer cures the complaint within thirty days, damages are limited to actual damages in any subsequent litigation.

2. If the manufacturer fails to respond to the notice provided in subdivision (1) of this subsection or if an independent repair facility or owner is not satisfied with the manufacturer's cure, the independent repair facility or owner may file a complaint in district court. The complaint shall include:

(a) Written information confirming that the complainant attempted to acquire and use, through the then-available standard support function provided by the manufacturer, all relevant diagnostics, tools, service parts, documentation, and updates to embedded software, including communication with customer assistance via the manufacturer's then-standard process, if made available by the manufacturer; and
(b) Evidence of manufacturer notification as required in subdivision (1) of this subsection.

3. The attorney general shall enforce this section. Each violation of this section shall be punishable by a three-thousand-dollar fine, which shall be deposited in the general revenue fund established under section 33.543. This Act applies with respect to equipment sold or in use on or after January 1, 2023.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-015)

Subject

Initiative petition from Matthew Vitale regarding a proposed amendment to Chapter 407 of the Revised Statutes of Missouri. (Received February 19, 2021)

Date

March 11, 2021

Description

This proposal would amend Chapter 407 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated Section 407.652 would require that manufacturers make the same diagnostic and repair information available to authorized repair providers available to normal purchasers of products in Missouri. Section 407.654.3 tasks their office with enforcing these provisions. They estimate a cost of approximately $195,536 on an annual basis.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated they anticipate no impact as a result of the proposed petition.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated this is a non-fiscal impact for their department.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated the definitions in this initiative petition proposed statutory change are broad enough that it is difficult for their department to estimate whether there would be a cost to their agency.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated they will defer to the Office of Administration.

Officials from the **Department of Social Services** indicated this initiative petition will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal should not impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would have zero fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal should not impact their office. If fines are issued, Total State Revenue will increase a corresponding amount.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have an effect on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated their county has low dollar volume for digital electronic equipment repairs, as they have tended to replace with new. Those repairs seem to be done by independent contractors anyway. What minor savings they would realize from making such repair information widely available could even potentially be offset by price increases from the manufacturers should this pass. In sum, they see no fiscal impact on their county government from this initiative.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **St. Louis County** indicated they have not been able to determine an impact on their county as the initiative stands.

Officials from the **City of Kansas City** indicated this proposed amendment would have no fiscal impact on their city.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from **University of Missouri** indicated this petition has no obvious fiscal impact to their university.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, Metropolitan Community College,** and **St. Louis Community College.**

Fiscal Note Summary

State governmental entities estimate no savings and additional costs of approximately $200,000 per year. Local governmental entities estimate no costs or savings.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

February 4, 2021

RECEIVED
FEB 04 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Chris Vas regarding a proposed constitutional amendment to Article V (2022-014)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Chris Vas on February 4, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

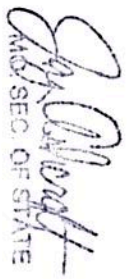
County
Page No.

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 202w, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.



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CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP COD E	CONG. DIST.	NAME (Printed or Typed)
1.					
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12.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do ☐ do not ☐ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____ _____
Signature of Affiant (Person obtaining signatures) Address of Affiant

_____
(Printed Name of Affiant)

Subscribed and sworn to before me this _____ day of _____, A.D. 20___.

_____ Notary Public (Seal)
Signature of Notary

_____ My commission expires
Address of Notary

NOTICE: You are advised that in addition to the express amendments, repeals, and modifications as set forth below, this proposal may repeal, change or modify by implication, or may be construed by some persons to repeal, change or modify by implication, Article IV, Section 4, Article V, Sections 8, 19, 25(a), 25(c)(1), 25(c)(2), 25(d), 25(e), 25(f), and 25(g), and Article VIII, Section 23 of the Constitution of Missouri.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

To amend Sections 8, 19, 25(a), and 25(f), and enact Sections 1(a), 25(c)(3), 25(c)(4), 25(c)(5), and 25(c)(6) of Article V of the Constitution of Missouri to read as follows:

Section 1(a). 1. Judges of the supreme court and court of appeals shall be elected in elections conducted in the same manner as contested elections for governor.

2. The election of judges derives from the principle that all political power is vested in and derived from the people, and all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole, and further, that all courts of justice shall be open to every person without sale, denial, or delay. Judges shall therefore be accountable to the citizens of this state, this constitution, and the United States Constitution, and not beholden to any particular association or alliance of lawyers, judges, or interest groups. To accomplish this purpose, as set forth in sections 25(a) through (g), judges of the supreme court and court of appeals shall henceforth stand for election, and shall no longer be selected by the governor from nominations made by commissions of lawyers, judges, and the governor's chosen appointees. Voters in most circuits shall continue to have the ability to choose the method by which circuit and associate circuit judges are selected. Section 1(a) and sections 25(a) through (g) shall be known as the "Missouri Plan for Judicial Fairness and Accountability."

Section 8. [The judges of the supreme court shall elect from their number a] The chief justice [to] shall preside over the supreme court en banc, and the judges of the court of appeals in each district shall elect from their number a chief judge of the district. The terms of the [chief justice and] chief judges shall be fixed by the courts over which they preside. The chief justice of the supreme court shall be the chief administrative officer of the judicial system and, subject to the supervisory authority of the supreme court, shall supervise the administration of the courts of this state.

Section 19. Judges of the supreme court, including the chief justice, and judges and of the court of appeals shall be selected for terms of [twelve] six years, judges of the circuit courts for terms of six years, and associate circuit judges for terms of four years. No supreme court judge, supreme court chief justice, or court of appeals judge shall be elected to a particular judicial seat for more than two consecutive terms.

Section 25(a). Whenever a vacancy shall occur in the office of [judge of any of the following courts of this state, to wit: The supreme court, the court of appeals, or in the office of] circuit or associate circuit judge within the city of St. Louis and Jackson County, the governor shall fill such vacancy by appointing one of three persons possessing the qualifications for such office, who shall be nominated and whose names shall be submitted to the governor by a nonpartisan judicial commission established and organized as hereinafter provided. If the governor fails to appoint any of the nominees within sixty days after the list of nominees is submitted, the nonpartisan judicial commission making the nomination shall appoint one of the nominees to fill the vacancy. Whenever a vacancy shall occur in the office of judge of the supreme court, supreme court chief justice, or judge of the court of appeals, it shall be promptly filled under article 4, section 4 of this constitution and such appointee shall hold office for the remainder of the vacating judge's term.

Section 25(c)(1). Each judge appointed to the office of circuit or associate circuit judge pursuant to the provisions of sections 25(a)-(g) shall hold office for a term ending December thirty-first following the next general election after the expiration of twelve months in the office. Any circuit or associate circuit judge holding office, or elected thereto, at the time of the election by which the provisions of sections 25(a)-(g) become applicable to his office, shall, unless removed for cause, remain in office for the term to which he would have been entitled had the provisions of sections 25(a)-(g) not become applicable to his office. Not less than sixty days prior to the holding of the general election next preceding the expiration of his term of office, any circuit or associate circuit judge whose office is subject to the provisions of sections 25(a)-(g) may file in the office of the secretary of state a declaration of candidacy for election to succeed himself. If a declaration is not so filed [by any judge], the vacancy resulting from the expiration of his term of office shall be filled by appointment as herein provided. If such declaration is filed, his name shall be submitted at said next general election to the voters eligible to vote [within the state if his office is that of judge of the supreme court, or within the geographic jurisdiction limit of the district where he serves if his office is that of a judge of the court of appeals, or] within the circuit if his office is that of circuit judge, or within the county if his office is that of associate circuit judge on a separate judicial ballot, without party designation, reading:

"Shall Judge .....

(Here the name of the judge shall be inserted) of the .....

(Here the title of the court shall be inserted) be retained in office? Yes No

(Mark an "X" in the box you prefer.)" If a majority of those voting on the question vote against retaining him in office, upon the expiration of his term of office, a vacancy shall exist which shall be filled by appointment as provided in section 25(a); otherwise, said judge shall, unless removed for cause, remain in office for the number of years after December thirty-first following such election as is provided for the full term of such office, and at the expiration of each such term shall be eligible for retention in office by election in the manner here prescribed.

Section 25(c)(3). Judges of the court of appeals and supreme court shall be elected at the general election by the voters eligible to vote within the appellate district of the seat being elected as set forth in sections 25(c)(4) and 25(c)(5). Except as set forth in section 25(a), they shall hold office for a term expiring December thirty-first in the sixth year after their election. The provisions of sections 25(c)(1) and 25(c)(2) shall not apply to court of appeals or supreme court judges.

Section 25(c)(4). Supreme court judges shall be elected as follows. If the general assembly has provided by law for three appellate districts, a chief justice shall be elected at large and two supreme court judges shall be elected from each court of appeals district by the voters eligible to vote within that district, but if greater than three court of appeals districts are established or the geographical boundaries of the districts change such that the following divisions cannot be made, then elections for supreme court judges other than the chief justice shall be as established by law, or if no law timely establishes procedures for such elections, then elections for all supreme court seats shall be at large. Seats E1 and E2 shall be elected from the court of appeals district which includes the City of St. Louis. Seats S1 and S2 shall be elected from the court of appeals district which includes the City of

Springfield. Seats W1 and W2 shall be elected from the court of appeals district which includes the City of Kansas City. Seat CJ, the seat of the chief judge, shall be elected at large. Seats E1 and S1 shall be known as "Class 1" and elected in 2024 and every sixth successive year. Seats W1 and E2 shall be known as "Class 2" and elected in 2026 and every sixth successive year. Seats S2, W2, and the chief justice's at-large seat, CJ, shall be known as "Class 3" and elected in 2028 and every sixth successive year. A supreme court judge shall be a resident of the appellate district from which he or she is elected no later than the day of his or her election.

Section 25(c)(5). The following transition provisions shall apply: 1. Those supreme court judges holding office as of 5:00 p.m. on December 3, 2020, shall not be required to reside in any particular appellate district but on that date shall nonetheless be assigned the following seat designations for purposes of implementing elections and filling vacancies. The seat designations shall be assigned in the following order: CJ, W2, S2, E2, W1, S1, E1. First, beginning with Seat CJ, seats will be assigned to judges who have been retained by voters, starting with the judge most recently retained by voters. For judges retained at the same time, the judge having served the least time on the supreme court shall be assigned first. After all judges who have been retained have been assigned seats, judges who have been appointed shall be assigned, with judges most recently appointed to be assigned first. If all judges who have been retained or appointed have been assigned seats, and it appears that one or more supreme court seats was vacated on or before December 8, 2022, but remained unfilled by the end of that date, these vacancies will be immediately assigned a class and seat, using the order set forth in this section until all seats through Seat E1 are filled, and in assigning seat designations to vacancies, vacancies created by a judge whose last name is first in alphabetical order will have precedence. A seat held by any judge who lost a retention election in the 2022 general election shall be treated as vacant solely for purposes of assigning a class and seat under this transition provision, even though the judge shall hold office until December 31, 2022, and the seat shall be treated as vacant for purposes of section 25(a) on January 1, 2023, and thereafter filled under the provisions of that section.

2. Court of appeals judges who were last retained in the 2012 or 2014 general elections, or the successors to vacancies left by such judges, shall stand in the 2024 general election, court of appeals judges who were last retained in the 2016 or 2018 general elections, or the successors to vacancies left by such judges, shall stand in the 2026 general election, and court of appeals judges who were last retained in the 2020 or 2022 general elections, or the successors to vacancies left by such judges, shall stand in the 2028 general election. The candidate elected in each such election shall serve for the term prescribed by section 19, and every succeeding six years, a new election shall be held for that judicial office. Court of appeals judges first eligible for retention in the 2024 general election under the immediately prior version of section 25(c)(1), which was effective until the end of thirty days after the election adopting this section, shall stand for election in the 2024 general election. Any seat held by a court of appeals judge who loses a retention election in the 2022 general election shall be treated as vacant on January 1, 2023, and shall thereafter be filled under the provisions of section 25(a). Any law providing for additional court of appeals seats shall specify the first general election at which the seat shall be filled.

3. A supreme court or court of appeals vacancy that opened before the end of thirty days after the election adopting this section but was not yet filled as of that time and date shall be filled by the governor under the provisions of section 25(a).

4. The transition provisions of this section 25(c)(5) shall be severable from the remainder of section 25(a) through (g).

Section 25(c)(6). 1. Elections for the offices of judge of the supreme court and court of appeals shall be partisan elections.

2. All declarations for candidacy for the offices of judge of the supreme court and court of appeals shall be filed in the office of the secretary of state no later than 120 days before the primary election.

3. Political parties shall nominate party candidates for supreme court or court of appeals judge using the same procedures the laws provide for candidates for governor. Additionally, groups of voters may nominate independent candidates. The person so nominated by a group of voters may qualify as an independent candidate in the general election using the same procedures the laws provide for candidates for governor, except that the nominating petition must be signed by at least thirty thousand registered voters in the appellate district, or two percent of the voters who voted in the appellate district in the last election for governor, whichever is less. Notwithstanding the provisions of section 25(d), the governor shall have no power to appoint to any judicial office any person selected by the Appellate Judicial Commission.

4. Unless otherwise provided by law, primary and general elections for the offices of judge of the supreme court and court of appeals shall be held in the same manner as elections for governor. Contests to the results of an election under this section, whether on the basis of qualification, irregularity, or other cause, or for recount other than any automatic recount as may be provided by law, shall be heard and determined in the same manner as contested elections for governor, unless otherwise provided by law.

5. The provisions of this section 25(c)(6) shall be severable from the remainder of section 25(a) through (g).

Section 25(f). No judge of any court in this state, appointed or elected to or retained in office in the manner prescribed in sections 25(a)-(g), shall directly or indirectly make any contribution to or hold any office in a political party or organization, or take part in any political campaign[.] except as provided in sections 25(a)–(g). A judge or judicial candidate may announce his or her views on disputed legal or political issues provided that the judge or judicial candidate does not make pledges or promises to render specific rulings or decisions on pending litigation. Judicial candidates and judges who are judicial candidates shall be allowed to solicit, receive and make campaign contributions, and make and receive the benefit of campaign expenditures for their own campaigns as may be provided by law. Nothing herein shall preclude the application of laws or rules of the supreme court governing judicial participation in specific cases based on a judge's political activity with respect to the subject matter or parties. The provisions of this section 25(f) shall be severable from the remainder of section 25(a) through (g), except that nothing shall prohibit a candidate for the supreme court or court of appeals from making or accepting contributions to or taking part in his or her own political campaign.

RECEIVED
JAN 21 2021
STATE AUDITORS OFFICE

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 21, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Matt Vitale regarding a proposed statutory amendment to Chapter 407 (2022-013)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Matt Vitale on January 21, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____

Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

Initiative Petition

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri: We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition: I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS	ZIP CODE	CONG DIST.	NAME (Printed or Typed)
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SEC OF STATE

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Street Address of Affiant

_____
City, State, and Zip Code of Affiant

Subscribed and sworn to before me this day of _____, A.D. _____.

_____
Signature of Notary

_____
Address of Notary

Seal

Be it enacted by the people of the State of Missouri:

Chapter 407, RSMo, is amended by adding three new sections, to be known as sections 407.652, 407.653, and 407.654, to read as follows:

407.652

1. For digital electronic equipment, and parts for such equipment, sold or used in the state of Missouri, an original equipment manufacturer shall make available, for purposes of diagnosis, maintenance, or repair, to any independent repair provider, or to the owner of digital electronic equipment manufactured by or on behalf of, or sold by, the original equipment manufacturer, on fair and reasonable terms:

(a) Documentation, parts, and tools, inclusive of any updates to information or embedded software.
(b) Diagnostic and repair information that is provided to an authorized repair provider available to an independent repair provider or owner in the same manner that such information is provided to the authorized repair provider without any additional charge.
(c) Service parts provided to an authorized repair provider available for purchase by an independent repair provider or owner. However, the manufacturer need not make accessible for purchase any service part no longer available to the manufacturer or the authorized repair provider.
(d) Diagnostic repair tools that incorporate the same diagnostic repair capabilities made available to an authorized repair provider available for purchase by an independent repair provider or owner.
(e) Any special documentation, tools, and parts needed to reset an electronic security lock or other security-related function when disabled in the course of diagnosis, maintenance, or repair of the equipment. Such documentation, tools, and parts may be made available through appropriate secure release systems.

2. Any original equipment manufacturer that sells any diagnostic, service, or repair documentation to any independent repair provider or to any owner in a format that is standardized with other original manufacturers, and on terms and conditions more favorable than the manner and the terms and conditions pursuant to which the authorized repair provider obtains the same diagnostic, service, or repair documentation, is prohibited from requiring any authorized repair provider to continue purchasing diagnostic, service, or repair documentation in a proprietary format, unless the proprietary format includes diagnostic, service, or repair documentation or functionality that is not available in such a standardized format.

3. Original equipment manufacturers of digital electronic equipment sold on or after January 1, 2024, in the state of Missouri are prohibited from designing or manufacturing digital electronic equipment in such a way as to prevent reasonable diagnostic or repair functions by an independent repair provider. Preventing reasonable diagnostic or repair functions includes permanently affixing a battery in a manner that makes it difficult or impossible to remove.

407.653

1. Nothing in this Act shall be construed to require an original equipment manufacturer to divulge a trade secret to an owner or an independent service provider except as necessary to provide documentation, parts, and tools on fair and reasonable terms.

2. No provision in this Act shall be construed to alter the terms of any arrangement in force between an authorized repair provider and an original equipment manufacturer, including, but not limited to, the performance or provision of warranty or recall repair work by an authorized repair provider on behalf of an original equipment manufacturer pursuant to such arrangement, except that any provision in such terms that purports to waive, avoid, restrict, or limit the original equipment manufacturer's obligations to comply with this section shall be void and unenforceable.

3. This section shall not require manufacturers or authorized repair providers to provide an owner or independent repair provider access to nondiagnostic and nonrepair information provided by a manufacturer to an authorized repair provider pursuant to the terms of an authorizing agreement.

407.654

1. An independent repair provider or owner that believes that a manufacturer has failed to provide information, including documentation, updates to firmware, safety and security corrections, diagnostics, documentation, or a tool required by this section, shall notify the manufacturer in writing and give the manufacturer thirty days from the time the manufacturer receives the complaint to cure the failure. If the manufacturer cures the complaint within thirty days, damages are limited to actual damages in any subsequent litigation.

2. If the manufacturer fails to respond to the notice provided in subdivision (1) of this subsection or if an independent repair facility or owner is not satisfied with the manufacturer's cure, the independent repair facility or owner may file a complaint in district court. The complaint shall include:

(a) Written information confirming that the complainant attempted to acquire and use, through the then-available standard support function provided by the manufacturer, all relevant diagnostics, tools, service parts, documentation, and updates to embedded software, including communication with customer assistance via the manufacturer's then-standard process, if made available by the manufacturer; and
(b) Evidence of manufacturer notification as required in subdivision (1) of this subsection.

3. The attorney general shall enforce this section. Each violation of this section shall be punishable by a three-thousand-dollar fine, which shall be deposited in the general revenue fund established under section 33.543. This Act applies with respect to equipment sold or in use on or after January 1, 2023.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 19, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
JAN 19 2021
STATE AUDITORS OFFICE

RE: Petition approval request from Ryan Meyer regarding a proposed constitutional amendment to Article XII (2022-012)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Ryan Meyer on January 15, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

Page No. _____

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 JAN 15 PM 1:25
SEC OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-012

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article XII is amended by adding and adopting one new section to be known as Section 2(c).

Section 2(c). Any amendment adopted or section added and adopted to this Constitution by ballot affirmation of the voters of the State of Missouri through a voter petition amendment process shall only be amended or repealed in same manner as was performed to ratify such amendment or section.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-012)

Subject

Initiative petition from Ryan Meyer regarding a proposed constitutional amendment to Article XII. (Received January 19, 2021)

Date

February 8, 2021

Description

This proposal would amend Article XII of the Missouri Constitution.

The amendment is to be voted on in November, 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that they could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal should not impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated this initiative petition is projected to have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal should not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of

their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no effect on their budget.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated this amendment on its own has no effect on the county's finances.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **Jackson County** indicated there is no fiscal impact to their county.

Officials from **St. Louis County** indicated the fiscal impact, if any, is too remote or indirect to calculate.

Officials from the **City of Kansas City** indicated this initiative petition has no fiscal impact on their city.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated no fiscal impact.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, University of Missouri,** and **St. Louis Community College.**

Fiscal Note Summary

State and local governmental entities estimate no costs or savings from this proposal.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 19, 2021

RECEIVED
JAN 19 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Ryan Meyer regarding a proposed constitutional amendment to Article I, Section 36 (2022-011)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Ryan Meyer on January 15, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

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2021 JAN 15 PM 1:24
MO SEC OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-011

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article I is amended by adding and adopting one new section to be known as Section 36.

Section 36. The jury or judge as the trier of the facts in civil actions or torts shall not be limited in their judgment to award a claimant with standing any and all damages that the jury or judge that renders judgement may deem fair and just. Nor shall the trier of the facts be limited in factors to be considered in calculation of damages, including but not limited to any such factors as pain, suffering, grief, or bereavement.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-011)

Subject

Initiative petition from Ryan Meyer regarding a proposed constitutional amendment to Article I. (Received January 19, 2021)

Date

February 8, 2021

Description

This proposal would amend Article I of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri,** and **St. Louis Community College**.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact to their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated this proposal to remove damage caps and criteria in civil litigation could likely have a significant impact on their department over time, due to their department's high rate of involvement in those proceedings, which could potentially result in higher awards. The extent of the impact is therefore unknown.

Officials from the **Department of Labor and Industrial Relations** indicated this proposed amendment to the Missouri Constitution appears to remove any consideration of caps or limits enacted in state law on civil lawsuits damages. This would have an unknown but potentially substantial cost to small businesses and all state agencies and political subdivisions in any future litigation.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal should not impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of the proposal.

Officials from the **Department of Transportation** indicated this initiative petition is not projected to have a fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal should not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of

publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no effect on their budget.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated this has no impact to their county. They have commercial liability insurance and the likelihood of a civil tort or malpractice suit against their county appears unlikely.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition. It is anticipated if and when a plaintiff in a civil action or tort case prevails there will be a cost for their county. However, there is no data currently that represents an average cost for a judgement that can be used to project an estimated cost.

Officials from **Jackson County** indicated no fiscal impact to their county.

Officials from **St. Louis County** indicated the fiscal impact is immeasurable and could be catastrophic. It removes damages caps in lawsuits and removes limitations in the factors a judge or jury can consider.

Officials from the **City of Kansas City** indicated this initiative petition would have a large and significant negative fiscal impact on their city. Currently, the amount Kansas City owes on judgments is capped by statute. This amendment would remove those caps.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated the fiscal impact is unknown. If the jury or judge is not limited in their judgement to award damages, they would have no way of knowing what that cost could be.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City**

of Union, the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, University of Missouri,** and **St. Louis Community College**.

Fiscal Note Summary

State and local governmental entities estimate no savings and possible costs of an unknown amount that could be significant.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 19, 2021

RECEIVED
JAN 19 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Ryan Meyer regarding a proposed constitutional amendment to Article I, Section 29 (2022-010)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Ryan Meyer on January 15, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 JAN 15 PM 1:23
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

22-010

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article I is amended by adding and adopting six new sections to be known as Sections 29(a), 29(b), 29(c), 29(d), 29(e), and 29(f)..

Section 29(a). For purposes of collective bargaining in this Constitution, the term "employees" shall be defined as any two or more persons selling their labor who choose to bargain collectively with the same purchaser of labor. For purposes of collective bargaining in this Constitution, the term "employer" shall be defined as a purchaser of labor rendered by employees.

Section 29(b). The right of employees and employers to collectively bargain shall be absolute. All employees shall be entitled to this absolute right regardless of the manner in which they sell their labor whether public, private, or otherwise. No act or statute shall have authority to restrict, restrain, or otherwise affect or interfere with any collective bargaining agreement, contract, or covenant. No act or statute shall have authority to restrict, restrain, or otherwise affect or interfere with the method, means, or process of deliberation or certification of any collective bargaining agreement, contract, or covenant. No act or statute shall have authority to restrict, restrain, or otherwise affect or interfere with any union security agreement of any collective bargaining agreement, contract, or covenant. No act or statute shall have authority to restrict, restrain, or otherwise affect or interfere with the exercise of said right by any employee or employer in the production of any crop, any livestock, any good, or any service.

Section 29(c). In order to ensure the freedom of speech or effectiveness otherwise of employees' bargaining representative or representative organization, and in the event federal law, regulation, or court order preventing the full collection of dues or other means of compensation, the bargaining representative or organization may condition full collection of dues or other means of compensation directly from the employer within the bargained agreement, contract, or covenant, regardless of public or private nature of the employer.

Section 29(d). The right of employees to strike shall be absolute. In order to preserve the public welfare, the legislature may pass reasonable legislation to ensure continuity of service for electricity, water, and heat.

Section 29(e). Nothing in Sections 29, 29(a), 29(b), 29(c), 29(d), 29(e), and 29(f) of Article I of this Constitution shall be interpreted to conflict with the law or Constitution of the United States or rulings of any United States court of competent jurisdiction over the state of Missouri.

Section 29(f). No section hereunder shall affect the validity or enforcement of any contract in effect or duly ratified at the time of adoption of Sections 29, 29(a), 29(b), 29(c), 29(d), 29(e), and 29(f).

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-010)

Subject

Initiative petition from Ryan Meyer regarding a proposed constitutional amendment to Article I. (Received January 19, 2021)

Date

February 8, 2021

Description

This proposal would amend Article I of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest**

Missouri State University, Southeast Missouri State University, and **Truman State University**.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no fiscal impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact to their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated Section 29(d) will significantly impact the operations of the correctional facilities. Section 105.585 currently requires any labor agreement negotiated with a public body prohibit strikes and picketing of any kind, which may conflict with this proposal. If this section passes, their department would have to restrict all operations within prisons to ensure the safety of staff, offenders, and the institution as a whole. It is unknown what the fiscal impact could be at this time.

The restrictions to operations within prisons would be only during a strike/picketing situation.

The nature of restrictions would likely be restricted to no offender movement within the facility due to staffing shortage generated by a strike. This would impact food service,

medical, programming, etc. Any potential impact would largely be driven by the duration of the restrictions. Potential fiscal impacts could be anything from needing to contract for food service operations to temporary staffing costs to outside healthcare costs. Those costs are unknown.

Officials from the **Department of Labor and Industrial Relations** indicated the State Board of Mediation (SBM) identifies who is considered a public employee for purposes of creating a bargaining unit and administers procedures for certifying the bargaining unit pursuant to sections 105.500 – 105.598. The proposed amendment specifies that no statute can restrict or interfere with the method, means, or process of deliberation or certification of any collective bargaining agreement. In essence, the SBM was created to facilitate the deliberations and certifications of bargaining unit agreements. Thus, the proposed amendment to the constitution would effectively remove much of the SBM's purpose and authority.

Also, in *Janus v. Am. Fed'n of State, Cty., & Mun. Employees, Council 31*, the U.S. Supreme Court held that it was unconstitutional for non-union members to be forced to pay agency fees. 138 S. Ct. 2448, 201 L. Ed. 2d 924 (2018). The proposed amendment allows the union to "condition full collection of dues or other means of compensation directly from the employer[.]" This provision may be considered unconstitutional according to the *Janus* case in that it may be interpreted as allowing a union to collect fees from employees who do not wish to be represented by the union. However, the proposed amendment does contain a provision specifying that there would be deference to federal court opinions and federal law. Read in harmony, federal courts would be instructed to interpret this language in compliance with the *Janus* case.

Furthermore, certain statutory provisions would likely be deemed unconstitutional by the enactment of the proposed change. For example, section 105.858 specifies the terms to be included in public sector bargaining agreements (the injunction of this provision, as part of HB 1413, is currently pending before the Missouri Supreme Court).

The fiscal impact to their department/State Board of Mediation would be minimal.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal should not impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of the proposal.

Officials from the **Department of Transportation** indicated this initiative petition is projected to have no fiscal impact on their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal should not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no effect on their budget.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated since the county currently has no collective bargaining agreements with its employees, this would have no fiscal impact on their county - no costs or savings.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from **Jackson County** indicated no fiscal impact to their county as the county already has collective bargaining agreements with members of its workforce.

Officials from **St. Louis County** indicated the fiscal impact would be indirect - the costs related to paying overtime and for temporary employees if employees go on strike. Currently, public employees are prohibited from striking.

Officials from the **City of Kansas City** indicated 29(c) in this initiative petition could have a negative fiscal impact on their city because it requires the employer to pay a full collection of dues to the union. This provision appears to require the employer to pay the union the member's amount of dues regardless of whether the member has granted approval for a deduction of such dues from such member's paycheck.

Officials from the **City of St. Louis** indicated **t**he City of St. Louis Department of Personnel is unable to determine if there is any potential fiscal impact of this proposed legislation because of the language in the proposal.

The City of St. Louis – Police Division does not supervise pay and benefit negotiations. However, providing police employees the right to strike would significantly increase the negotiating power for current members of bargaining units as well as expand the pool of employees eligible for union representation to include managerial employees. While existing union contracts in effect at passage would be honored, in the future there would be a cost for their city's management to have a no strike clause included in labor agreements. Section 29C suggests that if federal law states that employees in a bargaining class don't want to join the union that the employer would have to pick up the cost of "fair share" dues. This might cost $50,000 per year.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from **Metropolitan Community College** indicated fiscal impact unknown. If they are reading it correctly, in 29C the cost of collective bargaining is paid by the employer. With 872 employees they have no way of knowing what something like that might cost.

Officials from **University of Missouri** indicated in the event that this proposed statute were interpreted to apply to the university, it is not possible to identify a significant fiscal impact at this time.

Officials from **University of Central Missouri** indicated there is potential for a negative fiscal impact. However, it is not possible to determine at this time. One area of consideration is the provision that states all employees. In their case, that would be the existing bargaining unit, all faculty, and all staff would have the right to collectively bargain.

Additionally, the provision allows the right to strike. In their case, that would be substantially impactful as they are a residential community. If employees strike, there is an unknown fiscal implication to that element alone.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jasper County, St. Charles County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, St. Louis Community College,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University,** and **Truman State University**.

Fiscal Note Summary

Local governmental entities estimate no savings and possible costs of an unknown amount totaling at least $50,000. State governmental entities estimate no costs or savings.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
JAN 12 2021
STATE AUDITORS OFFICE

January 12, 2021

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Matt Vitale regarding a proposed statutory amendment to Chapter 407 (2022-009)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Matt Vitale on January 12, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____

Page _____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

Initiative Petition

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri: We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS	ZIP CODE	CONG DIST.	NAME (Printed or Typed)
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RECEIVED
2021 JAN 12 AM 8:22
SECRETARY OF STATE

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:

_____

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Street Address of Affiant

_____
City, State, and Zip Code of Affiant

Subscribed and sworn to before me this_____day of _____, A.D. _____.

_____
Signature of Notary

_____
Address of Notary

Seal

Be it enacted by the people of the State of Missouri:

Chapter 407, RSMo, is amended by adding four new sections, to be known as sections 407.652, 407.653, 407.654, and 407.655, to read as follows:

407.652

(a) "Authorized repair provider" means an individual or business who is unaffiliated with an original equipment manufacturer and who has an arrangement with the original equipment manufacturer, for a definite or indefinite period, under which the original equipment manufacturer grants to the individual or business a license to use a trade name, service mark, or other proprietary identifier for the purposes of offering the services of diagnosis, maintenance, or repair of digital electronic equipment under the name of the original equipment manufacturer, or other arrangement with the original equipment manufacturer to offer such services on behalf of the original equipment manufacturer. An original equipment manufacturer who offers the services of diagnosis, maintenance, or repair of its own digital electronic equipment, and who does not have an arrangement described in this subsection with an unaffiliated individual or business, shall be considered an authorized repair provider with respect to such equipment.
(b) "Digital electronic equipment" or "equipment" means any product that depends for its functioning, in whole or in part, on digital electronics embedded in or attached to the product.
(c) "Diagnostic and repair information" means any information provided to an authorized repair provider by the manufacturer of digital electronic equipment for the purposes of diagnosis, service, maintenance, or repair of the digital electronic equipment. "Diagnostic and repair information" includes manuals, diagrams, reporting output, service code descriptions, repair technical updates, diagnostic software, service access passwords, updates and corrections to firmware, security patches, and any related information or documentation.
(d) "Documentation" means any manual, diagram, reporting output, service code description, schematic diagram, or similar kinds of information provided to an authorized repair provider for purposes of its affecting the services of diagnosis, maintenance, or repair of digital electronic equipment.
(e) "Embedded software" means any programmable instructions provided on firmware delivered with digital electronic equipment, or with a part for such equipment, for purposes of equipment operation, including all relevant patches and fixes made by the manufacturer of such equipment or part for these purposes.
(f) "Fair and reasonable terms" means at costs and terms, including convenience of delivery, and including rights of use, equivalent to what is offered by the original equipment manufacturer to an authorized repair provider, using the net costs that would be incurred by an authorized repair provider in obtaining an equivalent part or tool or documentation from the original equipment manufacturer, accounting for any discounts, rebates, or other incentive programs in arriving at the actual net costs. For documentation, including any relevant updates, 'fair and reasonable terms' means at no charge, except that, when the documentation is requested in physical printed form, a charge may be included for the reasonable actual costs of preparing and sending the copy.
(g) "Independent repair provider" means an individual or business operating in this State, who does not have an arrangement described in subsection (a) with an original equipment manufacturer, and who is not affiliated with any individual or business who has such an arrangement, and who is engaged in the services of diagnosis, maintenance, or repair of digital electronic equipment, except that an original equipment manufacturer or, with respect to that original equipment manufacturer, an individual or business who has such an arrangement with that original equipment manufacturer, or who is affiliated with an individual or business who has such an arrangement with that original equipment manufacturer, shall be considered an independent repair provider for purposes of those instances in which it engages in the services of diagnosis, maintenance, or repair of digital electronic equipment that is not manufactured by or sold under the name of that original equipment manufacturer.
(h) "Original equipment manufacturer" means a business engaged in the business of selling or leasing new digital electronic equipment manufactured by or on behalf of itself, to any individual or business.
(i) "Owner" means an individual or business who owns or leases digital electronic equipment purchased or used in this State.
(j) "Part" means any replacement part, either new or used, made available by an original equipment manufacturer for purposes of effecting the services of maintenance or repair of digital electronic equipment manufactured or sold by the original equipment manufacturer.
(k) "Trade secret" means any "trade secret" as that term is defined under paragraph (3) of 18 U.S.C. 52 Section 1839.

407.653

1. For digital electronic equipment, and parts for such equipment, sold or used in the state of Missouri, an original equipment manufacturer shall make available, for purposes of diagnosis, maintenance, or repair, to any independent repair provider, or to the owner of digital electronic equipment manufactured by or on behalf of, or sold by, the original equipment manufacturer, on fair and reasonable terms:

(a) Documentation, parts, and tools, inclusive of any updates to information or embedded software.
(b) Diagnostic and repair information that is provided to an authorized repair provider available to an independent repair provider or owner in the same manner that such information is provided to the authorized repair provider without any additional charge.
(c) Service parts provided to an authorized repair provider available for purchase by an independent repair provider or owner. However, the manufacturer need not make accessible for purchase any service part no longer available to the manufacturer or the authorized repair provider.
(d) Diagnostic repair tools that incorporate the same diagnostic repair capabilities made available to an authorized repair provider available for purchase by an independent repair provider or owner.
(e) Any special documentation, tools, and parts needed to reset an electronic security lock or other security-related function when disabled in the course of diagnosis, maintenance, or repair of the equipment. Such documentation, tools, and parts may be made available through appropriate secure release systems.

2. Any original equipment manufacturer that sells any diagnostic, service, or repair documentation to any independent repair provider or to any owner in a format that is standardized with other original manufacturers, and on terms and conditions more favorable than the manner and the terms and conditions pursuant to which the authorized repair provider obtains the same diagnostic, service, or repair documentation, is prohibited from requiring any authorized repair provider to continue purchasing diagnostic, service, or repair documentation in a proprietary format, unless the proprietary format includes diagnostic, service, or repair documentation or functionality that is not available in such a standardized format.

3. Original equipment manufacturers of digital electronic equipment sold on or after January 1, 2024, in the state of Missouri are prohibited from designing or manufacturing digital electronic equipment in such a way as to prevent reasonable diagnostic or repair functions by an independent repair provider. Preventing reasonable diagnostic or repair functions includes permanently affixing a battery in a manner that makes it difficult or impossible to remove.

407.654

1. Nothing in this Act shall be construed to require an original equipment manufacturer to divulge a trade secret to an owner or an independent service provider except as necessary to provide documentation, parts, and tools on fair and reasonable terms.

2. No provision in this Act shall be construed to alter the terms of any arrangement in force between an authorized repair provider and an original equipment manufacturer, including, but not limited to, the performance or provision of warranty or recall repair work by an authorized repair provider on behalf of an original equipment manufacturer pursuant to such arrangement, except that any provision in such terms that purports to waive, avoid, restrict, or limit the original equipment manufacturer's obligations to comply with this section shall be void and unenforceable.

3. This section shall not require manufacturers or authorized repair providers to provide an owner or independent repair provider access to nondiagnostic and nonrepair information provided by a manufacturer to an authorized repair provider pursuant to the terms of an authorizing agreement.

407.655

1. An independent repair provider or owner that believes that a manufacturer has failed to provide information, including documentation, updates to firmware, safety and security corrections, diagnostics, documentation, or a tool required by this section, shall notify the manufacturer in writing and give the manufacturer thirty days from the time the manufacturer receives the complaint to cure the failure. If the manufacturer cures the complaint within thirty days, damages are limited to actual damages in any subsequent litigation.

2. If the manufacturer fails to respond to the notice provided in subdivision (1) of this subsection or if an independent repair facility or owner is not satisfied with the manufacturer's cure, the independent repair facility or owner may file a complaint in district court. The complaint shall include:

(a) Written information confirming that the complainant attempted to acquire and use, through the then-available standard support function provided by the manufacturer, all relevant diagnostics, tools, service parts, documentation, and updates to embedded software, including communication with customer assistance via the manufacturer's then-standard process, if made available by the manufacturer; and

(b) Evidence of manufacturer notification as required in subdivision (1) of this subsection.

3. The attorney general shall enforce this section. Each violation of this section shall be punishable by a three-thousand-dollar fine, which shall be deposited in the general revenue fund established under section 33.543. This Act applies with respect to equipment sold or in use on or after January 1, 2023.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 11, 2021

RECEIVED
JAN 11 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Matt Vitale regarding a proposed statutory amendment to Chapter 407 (2022-008)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Revised Statutes of Missouri filed by Matt Vitale on January 11, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County _____

Page_____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

Initiative Petition

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri: We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order tha the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himsel or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town c village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)

RECEIVED
2021 JAN 11 AM 8:44
SEC. OF STATE

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer:

_____

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Street Address of Affiant

_____
City, State, and Zip Code of Affiant

Subscribed and sworn to before me this_____day of

_____, A.D. _____.

_____
Signature of Notary

_____
Address of Notary

Seal

Be it enacted by the people of the State of Missouri:

Chapter 407, RSMo, is amended by adding four new sections, to be known as sections 407.652, 407.653, 407.654, and 407.655.

407.652

(a) "Authorized repair provider" means an individual or business who is unaffiliated with an original equipment manufacturer and who has an arrangement with the original equipment manufacturer, for a definite or indefinite period, under which the original equipment manufacturer grants to the individual or business a license to use a trade name, service mark, or other proprietary identifier for the purposes of offering the services of diagnosis, maintenance, or repair of digital electronic equipment under the name of the original equipment manufacturer, or other arrangement with the original equipment manufacturer to offer such services on behalf of the original equipment manufacturer. An original equipment manufacturer who offers the services of diagnosis, maintenance, or repair of its own digital electronic equipment, and who does not have an arrangement described in this subsection with an unaffiliated individual or business, shall be considered an authorized repair provider with respect to such equipment.

(b) "Digital electronic equipment" or "equipment" means any product that depends for its functioning, in whole or in part, on digital electronics embedded in or attached to the product.

(c) "Diagnostic and repair information" means any information provided to an authorized repair provider by the manufacturer of digital electronic equipment for the purposes of diagnosis, service, maintenance, or repair of the digital electronic equipment. "Diagnostic and repair information" includes manuals, diagrams, reporting output, service code descriptions, repair technical updates, diagnostic software, service access passwords, updates and corrections to firmware, security patches, and any related information or documentation.

(d) "Documentation" means any manual, diagram, reporting output, service code description, schematic diagram, or similar kinds of information provided to an authorized repair provider for purposes of its affecting the services of diagnosis, maintenance, or repair of digital electronic equipment.

(e) "Embedded software" means any programmable instructions provided on firmware delivered with digital electronic equipment, or with a part for such equipment, for purposes of equipment operation, including all relevant patches and fixes made by the manufacturer of such equipment or part for these purposes.

(f) "Fair and reasonable terms" for obtaining a part, tool, or documentation means at costs and terms including convenience of delivery and of enabling functionality, and including rights of use, equivalent to the most favorable costs and terms offered by the original equipment manufacturer to an authorized repair provider, using the net costs that would be incurred by the authorized repair provider in obtaining an equivalent part, tool or documentation from the original equipment manufacturer, accounting for any discounts, rebates, or other incentive programs in arriving at the actual net costs. For documentation, including any relevant updates, "fair and reasonable terms" means at no charge except that, when the documentation is requested in physical printed form, a charge may be included for the reasonable actual costs of preparing and sending the copy.

(g) "Independent repair provider" means an individual or business operating in this State, who does not have an arrangement described in subsection (a) with an original equipment manufacturer, and who is not affiliated with any individual or business who has such an arrangement, and who is engaged in the services of diagnosis, maintenance, or repair of digital electronic equipment, except that an original equipment manufacturer or, with respect to that original equipment manufacturer, an individual or business who has such an arrangement with that original equipment manufacturer, or who is affiliated with an individual or business who has such an arrangement with that original equipment manufacturer, shall be considered an independent repair provider for purposes of those instances in which it engages in the services of diagnosis, maintenance, or repair of digital electronic equipment that is not manufactured by or sold under the name of that original equipment manufacturer.

(l) "Original equipment manufacturer" means a business engaged in the business of selling or leasing new digital electronic equipment manufactured by or on behalf of itself, to any individual or business.

(m) "Owner" means an individual or business who owns or leases digital electronic equipment purchased or used in this State.

(n) "Part" means any replacement part, either new or used, made available by an original equipment manufacturer for purposes of effecting the services of maintenance or repair of digital electronic equipment manufactured or sold by the original equipment manufacturer.

(o) "Trade secret" means any "trade secret" as that term is defined under paragraph (3) of 18 U.S.C. 52 Section 1839.

407.653

1. For digital electronic equipment, and parts for such equipment, sold or used in the state of Missouri, an original equipment manufacturer shall make available, for purposes of diagnosis, maintenance, or repair, to any independent repair provider, or to the owner of digital electronic equipment manufactured by or on behalf of, or sold by, the original equipment manufacturer, on fair and reasonable terms:

(a) Documentation, parts, and tools, inclusive of any updates to information or embedded software.
(b) Diagnostic and repair information that is provided to an authorized repair provider available to an independent repair provider or owner in the same manner that such information is provided to the authorized repair provider without any additional charge.
(c) Service parts provided to an authorized repair provider available for purchase by an independent repair provider or owner. However, the manufacturer need not make accessible for purchase any service part no longer available to the manufacturer or the authorized repair provider.
(d) Diagnostic repair tools that incorporate the same diagnostic repair capabilities made available to an authorized repair provider available for purchase by an independent repair provider or owner.
(e) Any special documentation, tools, and parts needed to reset an electronic security lock or other security-related function when disabled in the course of diagnosis, maintenance, or repair of the equipment. Such documentation, tools, and parts may be made available through appropriate secure release systems.

2. Any original manufacturer that sells any diagnostic, service, or repair documentation to any independent repair provider or to any owner in a format that is standardized with other original manufacturers, and on terms and conditions more favorable than the manner and the terms and conditions pursuant to which the authorized repair provider obtains the same diagnostic, service, or repair documentation, is prohibited from requiring any authorized repair provider to continue purchasing diagnostic, service, or repair documentation in a proprietary format, unless the proprietary format includes diagnostic, service, or repair documentation or functionality that is not available in such a standardized format.

3. Original manufacturers of digital electronic equipment sold on or after January 1, 2023, in the state of Missouri are prohibited from designing or manufacturing digital electronic equipment in such a way as to prevent reasonable diagnostic or repair functions by an independent repair provider. Preventing reasonable diagnostic or repair functions includes permanently affixing a battery in a manner that makes it difficult or impossible to remove.

407.654

1. Nothing in this Act shall be construed to require an original equipment manufacturer to divulge a trade secret to an owner or an independent service provider except as necessary to provide documentation, parts, and tools on fair and reasonable terms.

2. No provision in this Act shall be construed to alter the terms of any arrangement in force between an authorized repair provider and an original equipment manufacturer, including, but not limited to, the performance or provision of warranty or recall repair work by an authorized repair provider on behalf of an original equipment manufacturer pursuant to such arrangement, except that any provision in such terms that purports to waive, avoid, restrict, or limit the original equipment manufacturer's obligations to comply with this section shall be void and unenforceable.

3. This section shall not require manufacturers or authorized repair providers to provide an owner or independent repair provider access to nondiagnostic and nonrepair information provided by a manufacturer to an authorized repair provider pursuant to the terms of an authorizing agreement.

407.655

1. An independent repair provider or owner that believes that a manufacturer has failed to provide information, including documentation, updates to firmware, safety and security corrections, diagnostics, documentation, or a tool required by this section, shall notify the manufacturer in writing and give the manufacturer thirty days from the time the manufacturer receives the complaint to cure the failure. If the manufacturer cures the complaint within thirty days, damages are limited to actual damages in any subsequent litigation.

2. If the manufacturer fails to respond to the notice provided in subdivision (1) of this subsection or if an independent repair facility or owner is not satisfied with the manufacturer's cure, the independent repair facility or owner may file a complaint in district court. The complaint shall include:

(a) Written information confirming that the complainant attempted to acquire and use, through the then-available standard support function provided by the manufacturer, all relevant diagnostics, tools, service parts, documentation, and updates to embedded software, including communication with customer assistance via the manufacturer's then-standard process, if made available by the manufacturer; and

(b) Evidence of manufacturer notification as required in subdivision (1) of this subsection.

3. The attorney general shall enforce this section. Each violation of this section shall be punishable by a three-thousand-dollar fine, which shall be deposited in the general revenue fund established under section 33.543.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

January 5, 2021

RECEIVED
JAN 05 2021
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed constitutional amendment to Article III (2022-007)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Winston Apple on January 5, 2021.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

22-007

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2021 JAN 5 AM 8:23
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Street Address of Affiant

_____ Printed Name of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____ Signature of Notary

_____ Address of Notary

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article III of the Constitution is revised by repealing Section 10 and amending Sections 3, 5, 6, 7, 8, 9, 11, 13, 14, 20(d), and 45 to read as follows:

Section 3. [(a)] The house of representatives shall consist of [one hundred sixty-three members] ten members from each congressional district, elected at each general election [and redistricted] as provided in [this] section 7 of this article.

[(b) The house independent bipartisan citizens commission shall redistrict the house of representatives using the following methods, listed in order of priority:

(1) Districts shall be as nearly equal as practicable in population, and shall be drawn on the basis of one person, one vote. Districts are as nearly equal as practicable in population if no district deviates by more than one percent from the ideal population of the district, as measured by dividing the number of districts into the statewide population data being used, except that a district may deviate by up to three percent if necessary to follow political subdivision lines consistent with subdivision (4) of this subsection;

(2) Districts shall be established in a manner so as to comply with all requirements of the United States Constitution and applicable federal laws, including, but not limited to, the Voting Rights Act of 1965 (as amended). The following principles shall take precedence over any other part of this constitution: no district shall be drawn in a manner which results in a denial or abridgment of the right of any citizen of the United States to vote on account of race or color; and no district shall be drawn such that members of any community of citizens protected by the preceding clause have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice;

(3) Subject to the requirements of subdivisions (1) and (2) of this subsection, districts shall be composed of contiguous territory as compact as may be. Areas which meet only at the points of adjoining corners are not contiguous. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries;

(4) To the extent consistent with subdivisions (1) to (3) of this subsection, communities shall be preserved. Districts shall satisfy this requirement if district lines follow political subdivision lines to the extent possible, using the following criteria, in order of priority. First, each county shall wholly contain as many districts as its population allows. Second, if a county wholly contains one or more districts, the remaining population shall be wholly joined in a single district made up of population from outside the county. If a county does not wholly contain a district, then no more than two segments of a county shall be combined with an adjoining county. Third, split counties and county segments, defined as any part of the county that is in a district not wholly within that county, shall each be as few as possible. Fourth, as few municipal lines shall be crossed as possible;

(5) Districts shall be drawn in a manner that achieves both partisan fairness and, secondarily, competitiveness, but the standards established by subdivisions (1) to (4) of this subsection shall take precedence over partisan fairness and competitiveness. "Partisan fairness" means that parties shall be able to translate their popular support into legislative representation with approximately equal efficiency. "Competitiveness" means that parties' legislative representation shall be substantially and similarly responsive to shifts in the electorate's preferences.

To this end, the average electoral performance of the two political parties receiving the most votes in the three preceding general elections for governor, for United States Senate, and for President of the United States shall be calculated. This index shall be defined as the total votes received by each party in the three preceding general elections for governor, for United States Senate, and for President of the United States, divided by the total votes cast for both parties in these elections. Using this index, the total number of wasted votes for each party, summing across all of the districts in the plan shall be calculated. "Wasted votes" are votes cast for a losing candidate or for a winning candidate in excess of the threshold needed for victory. In any redistricting plan and map of the proposed districts, the difference between the two parties' total wasted votes, divided by the total votes cast for the two parties, shall not exceed fifteen percent.

To promote competitiveness, the electoral performance index shall be used to simulate elections in which the hypothetical statewide vote shifts by one percent, two percent, three percent, four percent, and five percent in favor of each party. The vote in each individual district shall be assumed to shift by the same amount as the statewide vote. In each of these simulated elections, the difference between the two parties' total wasted votes, divided by the total votes cast for the two parties, shall not exceed fifteen percent.

(c) Within sixty days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a redistricting plan has been invalidated by a court of competent jurisdiction, within sixty days that such a ruling has been made, the state committee and the congressional district committees of each of the two political parties casting the highest vote for governor at the last preceding general election shall meet and the members of each committee shall nominate, by a majority vote of the elected members of the committee present, provided that a majority of the elected members is present, members of their party, residents in that district, in the case of a congressional district committee, as nominees for the house independent bipartisan citizens commission. No party shall select more than one nominee from any one state legislative district. The congressional district committees shall each submit to the governor their list of two elected nominees. The state committees shall each submit to the governor their list of five elected nominees. Within thirty days thereafter, the governor shall appoint a house independent bipartisan citizens commission consisting of one nominee from each list submitted by each congressional district committee and two nominees from each list submitted by each state committee to redistrict the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts. No person shall be appointed to both the house independent bipartisan citizens commission and the senate independent bipartisan citizens commission during the same redistricting cycle.

If any committee fails to submit a list within such time, the governor shall appoint a member of his or her own choice from the political party of the committee failing to submit a list, provided that in the case of a congressional district committee failing to submit a list, the person appointed to the commission by the governor shall reside in the congressional district of such committee.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final redistricting plan.

For the purposes of this Article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

(d) The commissioners so selected shall, on the fifteenth day, excluding Sundays and state holidays, after all members have been appointed, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

(e) Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative redistricting plan and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons. The commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map.

(f) Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

(g) After the final statement is filed, members of the house of representatives shall be elected according to such districts until a new redistricting plan is made as provided in this section, except that if the final statement is not filed within six months of the time fixed for the appointment of the commission, the commission shall stand discharged and the house of representatives shall be redistricted using the same methods and criteria as described in subsection (b) of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its redistricting plan and map with the secretary of state within ninety days of the date of the discharge of the house independent bipartisan citizens commission. The judicial commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map. Thereafter, members of the house of representatives shall be elected according to such districts until a redistricting plan is made as provided in this section.

(h) Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his or her actual and necessary expenses incurred while serving as a member of the commission.

(i) No redistricting plan shall be subject to the referendum.

(j) Any action expressly or implicitly alleging that a redistricting plan violates this Constitution, federal law, or the United States Constitution shall be filed in the circuit court of Cole County and shall name the body that approved the challenged redistricting plan as a defendant. Only an eligible Missouri voter who sustains an individual injury by virtue of residing in a district that exhibits the alleged violation, and whose injury is remedied by a differently drawn district, shall have standing. If the court renders a judgment in which it finds that a completed redistricting plan exhibits the alleged violation, its judgment shall adjust only those districts, and only those parts of district boundaries, necessary to bring the map into compliance. The supreme court shall have exclusive appellate jurisdiction upon the filing of a notice of appeal within ten days after the judgment has become final.]

Section 4. Each representative shall be twenty-four years of age, and next before the day of his election shall have been a qualified voter [for two years] and a resident of the [county or] district which she or he is chosen to represent for one year, if such [county or] district shall have been so long established, and if not, then of the [county or] district from which the same shall have been taken.

Section 5. [The] With the exception of the number of senators and the length of term of senators elected to serve in the One-hundred-and-third General Assembly as provided for in Article III, Section 11, the senate shall consist of [thirty-four] three members from each congressional district elected by the qualified voters of [the senatorial districts] the state of Missouri for a term of [four] two years. [Senatorial districts shall be apportioned as provided for in Article III, Section 7.]

Section 6. Each senator shall be thirty years of age, and next before the day of her or his election shall have been a qualified voter of the state for three years and a resident of the district which she or he is chosen to represent for one year, if such district shall have been so long established, and if not, then of the district or districts from which the same shall have been taken.

Section 7. [(a) Within sixty days after the population of this state is reported to the President for each decennial census of the United States, or within sixty days after a redistricting plan has been invalidated by a court of competent jurisdiction, the state committee and the congressional district committees of each of the two political parties casting the highest vote for governor at the last preceding general election shall meet and the members of each committee shall nominate, by a majority vote of the elected members of the committee present, provided that a majority of the elected members is present, members of their party, residents in that district, in the case of a congressional district committee, as nominees for the senate independent bipartisan citizens commission. No party shall select more than one nominee from any one state legislative district. The congressional district committees shall each submit to the governor their list of two elected nominees. The state committees shall each submit to the governor their list of five elected nominees. Within thirty days thereafter the governor shall appoint a senate independent bipartisan citizens commission consisting of two nominees from each list submitted by each state committee and one nominee from each list submitted by each congressional district committee, to redistrict the thirty-four senatorial districts and to establish the numbers and boundaries of said districts. No person shall be appointed to both the house independent bipartisan citizens commission and the senate independent bipartisan citizens commission during the same redistricting cycle.

If any committee fails to submit a list within such time, the governor shall appoint a member of his or her own choice from the political party of the committee failing to submit a list, provided that in the case of a congressional district committee failing to submit a list, the person appointed to the commission by the governor shall reside in the congressional district of such committee.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final redistricting plan.

(b) The commissioners so selected shall, on the fifteenth day, excluding Sundays and state holidays, after all members have been appointed, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

(c) The senate independent bipartisan citizens commission shall redistrict the senate using the same methods and criteria as those required by subsection (b), section 3 of this Article for the redistricting of the house of representatives.

(d) Not later than five months after the appointment of the senate independent bipartisan citizens commission, the commission shall file with the secretary of state a tentative redistricting plan and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons. The commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map.

(e) Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

(f) After the final statement is filed, senators shall be elected according to such districts until a new redistricting plan is made as provided in this section, except that if the final statement is not filed within six months of the time fixed for the appointment of the commission, the commission shall stand discharged and the senate shall be redistricted using the same methods and criteria as described in subsection (b) of section 3 of this Article by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its redistricting plan and map with the secretary of state within ninety days of the date of the discharge of the senate independent bipartisan citizens commission. The judicial commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map. Thereafter, senators shall be elected according to such districts until a redistricting plan is made as provided in this section.

(g) Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his or her actual and necessary expenses incurred while serving as a member of the commission.

(h) No redistricting plan shall be subject to the referendum.

(i) Any action expressly or implicitly alleging that a redistricting plan violates this Constitution, federal law, or the United States Constitution shall be filed in the circuit court of Cole County and shall name the body that approved the challenged redistricting plan as a defendant. Only an eligible Missouri voter who sustains an individual injury by virtue of residing in a district that exhibits the alleged violation, and whose injury is remedied by a differently drawn district, shall have standing. If the court renders a judgment in which it finds that a completed redistricting plan exhibits the alleged violation, its judgment shall adjust only those districts, and only those parts of district boundaries, necessary to bring the map into compliance. The supreme court shall have exclusive appellate jurisdiction upon the filing of a notice of appeal within ten days after the judgment has become final.]

(a) Beginning with the election of senators and representatives to be held in the year two thousand and twenty-four there will be no primary election for those offices. For the general election, all candidates who file to run and are qualified to run, for the General Assembly will be listed on the ballot in the congressional district in which they reside, grouped by political party affiliation. Independent candidates will be grouped together on the ballot.

(b) General elections shall be carried out using a system of ranked choice voting under which each voter shall be able to rank a minimum of three candidates for the General Assembly in order of preference. If feasible, the ballot shall permit voters to rank up to ten candidates for the General Assembly, or as close to that number as feasible. Voters shall be able to request a general ballot listing all of the candidates for all political parties and all independent candidates, a single-party ballot listing only the candidates of a single political party, or a ballot listing only independent candidates.

(c) A number of spaces equal to the number of choices voters are able to rank shall be provided to write in the names of candidates not appearing on the ballot. Write-in votes may be cast for candidates for the General Assembly who are on the ballot in congressional districts other than a voter's congressional district. Those write-in votes from other districts will not be counted as part of the process of determining which candidates are elected to represent each congressional district but will be added to the cumulative vote total of candidates who are elected to the General Assembly for purposes of determining the value of each legislator's weighted vote.

(d) The ballot shall be simple and easy to understand, with instructions necessary to enable voters to successfully cast ballots under the system.

(e) The results of each general election will be tabulated in rounds. In any round of tabulation, if a voter's highest remaining choice is write-in vote for a candidate residing in a congressional district other than the congressional district in which a voter resides and votes, that ballot shall be set aside as a "provisional ballot" and counted after winning candidates from each district have been determined by votes cast within each district.

(f) In the first round of tabulation only first-choice votes shall be counted and the candidate within each district who receives the lowest number of first-choice votes is eliminated. The second-choice votes of voters whose first-choice candidate has been eliminated shall then be distributed among the "continuing candidates" and a second round of tabulation shall be conducted, after which the candidate in each district with the lowest number of "cumulative votes" is eliminated. The highest remaining choice on ballots for those eliminated candidates shall then be redistributed among the continuing candidates. This process shall be continued until there are sixteen candidates remaining in each district. The thirteen candidates with the most cumulative votes at that point are elected to the General Assembly and the candidates ranked fourteenth, fifteenth, and sixteenth, are designated as the first, second, and third "alternate members of the General Assembly", respectively.

(g) Provisional ballots shall then be tabulated and write-in votes on those ballots distributed among the candidates who were elected to the general assembly, not including the three alternate members from each district. A single vote will be added to the total cumulative vote for each candidate who was elected and is the highest remaining choice on each provisional ballot.

The three candidates from each congressional district who receive the highest cumulative vote totals, and who also meet the requirements for serving as a senator, are elected to the senate representing each district. The remaining candidates from each district are elected as representatives.

(h) If a voter inadvertently casts a vote for more than a single candidate among any of their ranked choices each candidate listed will be given the appropriate fraction of a whole vote. If a voter inadvertently fails to fill in a choice among their ranked choices but has additional lower-ranked choices, the missing ranked choice will be ignored. A ballot with no remaining choices for candidates who were elected is an "exhausted ballot" and shall be set aside.

(i) Officials shall determine a random selection algorithm, prior to tabulation, to resolve ties between candidates for the last remaining seat, or seats, in the General Assembly or to determine which members are elected to the senate.

(j) With the exception of votes taken to override a governor's veto, for which each member will cast a single non-weighted vote, candidates who are elected to the General Assembly shall be given weighted votes in all matters before the General Assembly based on the total number of votes each member received. The value of each member's weighted vote shall be determined by dividing the number of cumulative votes received by each member by the number of cumulative votes received by the member of the house of representatives with the lowest number of votes.

(k) A political party having no candidate for the General Assembly or statewide office receiving at least one percent of the total vote in the preceding general election, may qualify for a place on the ballot for the General Assembly in each congressional district by presenting petitions signed by one per cent of the legal voters in that congressional district. An independent candidate may qualify for a place on the ballot in a congressional district by presenting petitions signed by one-half of one percent of the legal voters in the congressional district in which they reside. The number of "legal voters" is equal to, and determined by, the total vote for governor in the general election last preceding. Said petitions are to be delivered to the secretary of state no later than one hundred and twenty days preceding the general election.

(l) The signatures on petitions submitted by independent candidates and political parties shall be subject to verification according to the procedures in the code of state regulations for independent candidate petitions in force at the time the petitions are submitted.

Section 8. No one shall be elected to serve more than [eight years total in any one house of the General Assembly nor more than] sixteen years total in [both houses of] the General Assembly. In applying this section, service in the General Assembly resulting from an election prior to December 3, 1992, or service of less than one year, in the case of a member of the house of representatives, or two years, in the case of a member of the senate, by a person elected after the effective date of this section to complete the term of another person, shall not be counted.

Section 9. Until the convening of the Seventy-fourth General Assembly the House of Representatives shall consist of one hundred sixty-three members elected from the one hundred sixty-three representative districts, as they existed January 1, 1965. Beginning with the election of representatives in the general elections to be held in the year two thousand and twenty-four the house of representatives shall consist of ten members elected from each congressional district.

Section 10. [The last decennial census of the United States shall be used in apportioning representatives and determining the population of senatorial and representative districts. Such districts may be altered from time to time as public convenience may require.]

Section 11. The first election of senators and representatives under this constitution, shall be held at the general election in the year one thousand nine hundred and forty-six when the whole number of representatives and the senators from the districts having even numbers, who shall compose the first class, shall be elected, and two years thereafter the whole number of representatives and the senators from districts having odd numbers, who shall compose the second class, shall be elected, and so on at each succeeding general election. Beginning with the general election to be held in the year two thousand and twenty-four, senators will no longer be divided into two classes. Senators from the class elected in the year two thousand and twenty-two will continue to serve for the remainder of the term to which they were elected. For the one-hundred-and-third General Assembly only, the senate will consist of forty-one senators. In the election held in the year two-thousand and twenty-four, the names of the senators from that class will not appear on the ballot, but voters may cast write-in votes for those senators and those write-in votes will be added to the number of votes senators of that class received in the election of two-thousand and twenty-two to determine the value of each senator's weighted vote.

Section 13. If any senator or representative removes her or his residence from the [district or county for which he was elected, his] state of Missouri, their office shall thereby be vacated. If any senator or representative removes her or his residence from the district from which they were elected, they may serve out their term as long as they continue to reside in Missouri.

Section 14. [Writs of election to fill vacancies in either house of the general assembly shall be issued by the governor.] Vacancies in the senate shall be filled by the house member from the same district with the weighted vote with the highest value, who also meets the criteria for serving as a senator, the resulting vacancy, as well a vacancy in the house for any other reason, shall be filled by the highest ranked remaining alternate member of the general assembly. Alternate members who assume office shall have a weighted vote with a value of 1.0.

Section 20(d). If any provision of sections 2, 3, 5, 6, 7, 8, 9, 11, 14, 19, [or] 20(c), or 45 or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

Section 45. When the number of representatives to which the state is entitled in the House of the Congress of the United States under the census of 1950 and each census thereafter is certified to the governor, the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled, which districts shall be composed of contiguous territory as compact and as nearly equal in population as may be. Beginning with the general election of 2024, the boundaries established for congressional districts under this Constitution shall also serve as the boundaries for senatorial districts and legislative districts for purposes of electing members of the General Assembly. If the Congress of the United States enacts legislation giving states the right to elect members of the House of the Congress of the United States from multiple-member districts or at-large, the state of Missouri shall elect its members at-large, if given a choice of the two, or from multiple-member districts, if that is the only choice, with those multiple-member districts composed of contiguous territory as compact and as nearly equal in population as may be. In either case, the general assembly shall by law continue to divide the state into a number of districts corresponding with the number of representatives to which the state is entitled in the House of Congress, composed according to the guidelines provided in this section and those districts shall continue to serve as senatorial districts and legislative districts to be used in electing members of the General Assembly and for electing delegates to a convention to revise and amend the constitution of Missouri if voters should vote in favor of such a convention.

Officials from the **City of Kansas City** indicated this proposed amendment would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact.

Officials from the **St. Louis County Board of Elections** indicated they estimate this petition to have a one-time fiscal note of about $30,000. They would have to upgrade their election software to include a system for ranked-choice voting, and they predict this would cost the above amount.

Officials from the **Platte County Board of Elections** indicated their existing equipment will handle ranked choice voting. They expect no significant costs or savings.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Fiscal Note Summary

The General Assembly is estimated to have approximately $750,000 in one-time costs and $8.8 million in annual savings. State and local governments could incur significant election-related costs of $48,000 to $38 million in one-time costs, and ongoing costs of at least $15,000 annually and at least $21,000 for each general election.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 30, 2020

RECEIVED
DEC 30 2020
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Chris Vas regarding a proposed constitutional amendment to Article V, version 2 (2022-006)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Chris Vas on December 30, 2020.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County_____
Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____ _____
Signature of Affiant (Person obtaining signatures) Address of Affiant

_____
(Printed Name of Affiant)

Subscribed and sworn to before me this _____ day of _____, A.D. 20___.

_____ Notary Public (Seal)
Signature of Notary

_____ My commission expires _____
Address of Notary

RECEIVED
2020 DEC 30 AM 8:31
MO. SEC. OF STATE

NOTICE: You are advised that in addition to the express amendments, repeals, and modifications as set forth below, this proposal may repeal, change or modify by implication, or may be construed by some persons to repeal, change or modify by implication, Article IV, Section 4, Article V, Sections 8, 19, 25(a), 25(c)(1), 25(c)(2), 25(d), 25(e), 25(f), and 25(g), and Article VIII, Section 23 of the Constitution of Missouri.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

To amend Sections 8, 19, 25(a), and 25(f), and enact Sections 1(a), 25(c)(3), 25(c)(4), 25(c)(5), and 25(c)(6) of Article V of the Constitution of Missouri to read as follows:

Section 1(a). 1. Judges of the supreme court and court of appeals shall be elected in nonpartisan elections.

2. The election of judges derives from the principle that all political power is vested in and derived from the people, and all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole, and further, that all courts of justice shall be open to every person without sale, denial, or delay. Judges shall therefore be accountable to the citizens of this state, this constitution, and the United States Constitution, and not beholden to any particular association or alliance of lawyers, judges, or interest groups. To accomplish this purpose, as set forth in sections 25(a) through (g), judges of the supreme court and court of appeals shall henceforth stand for election, and shall no longer be selected by the governor from nominations made by commissions of lawyers, judges, and the governor's chosen appointees. Voters in most circuits shall continue to have the ability to choose the method by which circuit and associate circuit judges are selected. Section 1(a) and sections 25(a) through (g) shall be known as the "Missouri Nonpartisan Court Plan."

Section 8. [The judges of the supreme court shall elect from their number a] The chief justice [to] shall preside over the supreme court en banc, and the judges of the court of appeals in each district shall elect from their number a chief judge of the district. The terms of the [chief justice and] chief judges shall be fixed by the courts over which they preside. The chief justice of the supreme court shall be the chief administrative officer of the judicial system and, subject to the supervisory authority of the supreme court, shall supervise the administration of the courts of this state.

Section 19. Judges of the supreme court, including the chief justice, and judges and of the court of appeals shall be selected for terms of [twelve] six years, judges of the circuit courts for terms of six years, and associate circuit judges for terms of four years. No supreme court judge, supreme court chief justice, or court of appeals judge shall be elected to a particular judicial seat for more than two consecutive terms.

Section 25(a). Whenever a vacancy shall occur in the office of [judge of any of the following courts of this state, to wit: The supreme court, the court of appeals, or in the office of] circuit or associate circuit judge within the city of St. Louis and Jackson County, the governor shall fill such vacancy by appointing one of three persons possessing the qualifications for such office, who shall be nominated and whose names shall be submitted to the governor by a nonpartisan judicial commission established and organized as hereinafter provided. If the governor fails to appoint any of the nominees within sixty days after the list of nominees is submitted, the nonpartisan judicial commission making the nomination shall appoint one of the nominees to fill the vacancy. Whenever a vacancy shall occur in the office of judge of the supreme court, supreme court chief justice, or judge of the court of appeals, it shall be promptly filled under article 4, section 4 of this constitution and such appointee shall hold office for the remainder of the vacating judge's term.

Section 25(c)(1). Each judge appointed to the office of circuit or associate circuit judge pursuant to the provisions of sections 25(a)-(g) shall hold office for a term ending December thirty-first following the next general election after the expiration of twelve months in the office. Any circuit or associate circuit judge holding office, or elected thereto, at the time of the election by which the provisions of sections 25(a)-(g) become applicable to his office, shall, unless removed for cause, remain in office for the term to which he would have been entitled had the provisions of sections 25(a)-(g) not become applicable to his office. Not less than sixty days prior to the holding of the general election next preceding the expiration of his term of office, any circuit or associate circuit judge whose office is subject to the provisions of sections 25(a)-(g) may file in the office of the secretary of state a declaration of candidacy for election to succeed himself. If a declaration is not so filed [by any judge], the vacancy resulting from the expiration of his term of office shall be filled by appointment as herein provided. If such declaration is filed, his name shall be submitted at said next general election to the voters eligible to vote [within the state if his office is that of judge of the supreme court, or within the geographic jurisdiction limit of the district where he serves if his office is that of a judge of the court of appeals, or] within the circuit if his office is that of circuit judge, or within the county if his office is that of associate circuit judge on a separate judicial ballot, without party designation, reading:

"Shall Judge .....

(Here the name of the judge shall be inserted) of the .....

(Here the title of the court shall be inserted) be retained in office? Yes No

(Mark an "X" in the box you prefer.)" If a majority of those voting on the question vote against retaining him in office, upon the expiration of his term of office, a vacancy shall exist which shall be filled by appointment as provided in section 25(a); otherwise, said judge shall, unless removed for cause, remain in office for the number of years after December thirty-first following such election as is provided for the full term of such office, and at the expiration of each such term shall be eligible for retention in office by election in the manner here prescribed.

Section 25(c)(3). Judges of the court of appeals and supreme court shall be elected at the general election by the voters eligible to vote within the appellate district of the seat being elected as set forth in sections 25(c)(4) and 25(c)(5). Except as set forth in section 25(a), they shall hold office for a term expiring December thirty-first in the sixth year after their election. The provisions of sections 25(c)(1) and 25(c)(2) shall not apply to court of appeals or supreme court judges.

Section 25(c)(4). Supreme court judges shall be elected as follows. If the general assembly has provided by law for three appellate districts, a chief justice shall be elected at large and two supreme court judges shall be elected from each court of appeals district by the voters eligible to vote within that district, but if greater than three court of appeals districts are established or the geographical boundaries of the districts change such that the following divisions cannot be made, then elections for supreme court judges other than the chief justice shall be as established by law, or if no law timely establishes procedures for such elections, then elections for all supreme court seats shall be at large. Seats E1 and E2 shall be elected from the court of appeals district which includes the City of St. Louis. Seats S1 and S2 shall be elected from the court of appeals district which includes the City of Springfield. Seats W1 and W2 shall be elected from the court of appeals district which includes the City of Kansas City. Seat CJ, the seat of the chief

judge, shall be elected at large. Seats E1 and S1 shall be known as "Class 1" and elected in 2024 and every sixth successive year. Seats W1 and E2 shall be known as "Class 2" and elected in 2026 and every sixth successive year. Seats S2, W2, and the chief justice's at-large seat, CJ, shall be known as "Class 3" and elected in 2028 and every sixth successive year. A supreme court judge shall be a resident of the appellate district from which he or she is elected no later than the day of his or her election.

Section 25(c)(5). The following transition provisions shall apply: 1. Those supreme court judges holding office as of 5:00 p.m. on December 8, 2022, shall not be required to reside in any particular appellate district but on that date shall nonetheless be assigned the following seat designations for purposes of implementing elections and filling vacancies. The seat designations shall be assigned in the following order: CJ, W2, S2, E2, W1, S1, E1. First, beginning with Seat CJ, seats will be assigned to judges who have been retained by voters, starting with the judge most recently retained by voters. For judges retained at the same time, the judge having served the least time on the supreme court shall be assigned first. After all judges who have been retained have been assigned seats, judges who have been appointed shall be assigned, with judges most recently appointed to be assigned first. If all judges who have been retained or appointed have been assigned seats, and it appears that one or more supreme court seats was vacated on or before December 8, 2022, but remained unfilled by the end of that date, these vacancies will be immediately assigned a class and seat, using the order set forth in this section until all seats through Seat E1 are filled, and in assigning seat designations to vacancies, vacancies created by a judge whose last name is first in alphabetical order will have precedence. A seat held by any judge who lost a retention election in the 2022 general election shall be treated as vacant solely for purposes of assigning a class and seat under this transition provision, even though the judge shall hold office until December 31, 2022, and the seat shall be treated as vacant for purposes of section 25(a) on January 1, 2023, and thereafter filled under the provisions of that section.
2. Court of appeals judges who were last retained in the 2012 or 2014 general elections, or the successors to vacancies left by such judges, shall stand in the 2024 general election, court of appeals judges who were last retained in the 2016 or 2018 general elections, or the successors to vacancies left by such judges, shall stand in the 2026 general election, and court of appeals judges who were last retained in the 2020 or 2022 general elections, or the successors to vacancies left by such judges, shall stand in the 2028 general election. The candidate elected in each such election shall serve for the term prescribed by section 19, and every succeeding six years, a new election shall be held for that judicial office. Court of appeals judges first eligible for retention in the 2024 general election under the immediately prior version of section 25(c)(1), which was effective until the end of thirty days after the election adopting this section, shall stand for election in the 2024 general election. Any seat held by a court of appeals judge who loses a retention election in the 2022 general election shall be treated as vacant on January 1, 2023, and shall thereafter be filled under the provisions of section 25(a). Any law providing for additional court of appeals seats shall specify the first general election at which the seat shall be filled.
3. A supreme court or court of appeals vacancy that opened before the end of thirty days after the election adopting this section but was not yet filled as of that time and date shall be filled by the governor under the provisions of section 25(a).
4. The transition provisions of this section 25(c)(5) shall be severable from the remainder of section 25(a) through (g).

Section 25(c)(6). 1. Elections for the offices of judge of the supreme court and court of appeals shall be non-partisan elections. No political party may or shall nominate any candidate for these judicial offices, and no primary or general election ballot shall include a party designation for any of these judicial offices. However, the general assembly shall make no law prohibiting a candidate from declaring himself or herself a supporter of a political party, or prohibiting a political party from declaring its support for a candidate.
2. All declarations for candidacy for the offices of judge of the supreme court and court of appeals shall be filed in the office of the secretary of state no later than 120 days before the primary election. A candidate, whether or not an incumbent, shall file such declaration using a form provided by the secretary of state. All declarations shall be accompanied by either a nominating petition or a nomination form. A nominating petition shall have been signed no earlier than 180 days before the primary election by one hundred voters eligible to vote in the applicable appellate district, or in the case of the chief justice, in the state. A nomination form shall be signed by all members of the Appellate Judicial Commission no earlier than 180 days before the primary. The Appellate Judicial Commission may issue nomination forms for up to three individuals per race, but it shall not issue a nomination form for any person who files a declaration accompanied by a nominating petition.
3. The two candidates receiving the highest number of votes in the primary election shall stand in the general election. The candidate achieving the greatest number of votes in the general election shall be elected to the judicial office.
4. Primary and general elections for the offices of judge of the supreme court and court of appeals shall be held in the same manner as gubernatorial elections to the greatest extent possible for nonpartisan elections, or as may otherwise be provided by law. Contests to the results of an election under this section, whether on the basis of qualification, irregularity, or other cause, or for recount other than any automatic recount as may be provided by law, shall be heard and determined in the same manner as gubernatorial elections to the greatest extent possible for nonpartisan elections, or as otherwise provided by law.
5. The provisions of this section 25(c)(6) shall be severable from the remainder of section 25(a) through (g).

Section 25(f). No judge of any court in this state, appointed or elected to or retained in office in the manner prescribed in sections 25(a)-(g), shall directly or indirectly make any contribution to or hold any office in a political party or organization, or take part in any political campaign[.] except as provided in sections 25(a)–(g). A judge or judicial candidate may announce his or her views on disputed legal or political issues provided that the judge or judicial candidate does not make pledges or promises to render specific rulings or decisions on pending litigation. Judicial candidates and judges who are judicial candidates shall be allowed to solicit, receive and make campaign contributions, and make and receive the benefit of campaign expenditures for their own campaigns, subject only to laws that may enact limits no more restrictive than those applicable, if any, to elections for the office of governor. Nothing herein shall preclude the application of laws or rules of the supreme court governing judicial participation in specific cases based on a judge's political activity with respect to the subject matter or parties. The provisions of this section 25(f) shall be severable from the remainder of section 25(a) through (g), except that nothing shall prohibit a candidate for the supreme court or court of appeals from taking part in his or her own political campaign.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-006)

Subject

Initiative petition from Chris Vas regarding a proposed constitutional amendment to Article V. (Received December 30, 2020)

Date

January 19, 2021

Description

This proposal would amend Article V of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, St. Louis County Board of Elections, Board of Election Commissioners City of St. Louis, Kansas City Board of Election Commissioners, Platte County Board of Elections, Jackson County Election Board,** and **Clay County Board of Election Commissioners**.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact on their agency.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal should not impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal should not impact their office.

Officials from the **Office of State Courts Administrator** indicated in reference to this initiative petition, a proposed constitutional amendment to Article V, there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated they do not believe this initiative petition will have any cost or savings for their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated this petition adds Supreme Court and Appellate Court judges to primary elections, but this will not result in increased costs to the county. Therefore, they estimate no costs or savings as a result of this initiative petition.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated this amendment will have no fiscal impact on their city.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from the **Metropolitan Community College** indicated no fiscal impact.

Officials from the **St. Louis County Election Board** indicated this petition would have no impact on their board.

Officials from the **Platte County Board of Elections** indicated this petition would have no fiscal impact on their board.

Officials from the **Jackson County Election Board** indicated this initiative petition would have no fiscal impact on their board.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, University of Missouri, St. Louis Community College, Board of Election Commissioners City of St. Louis, Kansas City Board of Election Commissioners,** and **Clay County Board of Election Commissioners**.

Fiscal Note Summary

State and local government entities estimate no costs or savings from this proposal.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 30, 2020

RECEIVED
DEC 30 2020
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Chris Vas regarding a proposed constitutional amendment to Article V, version 1 (2022-005)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Chris Vas on December 30, 2020.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County_____
Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Address of Affiant

_____
(Printed Name of Affiant)

Subscribed and sworn to before me this _____ day of _____, A.D. 20___.

_____
Signature of Notary

Notary Public (Seal)

_____
Address of Notary

My commission expires _____

RECEIVED
2020 DEC 30 AM 8:30
SEC. OF STATE

NOTICE: You are advised that in addition to the express amendments, repeals, and modifications as set forth below, this proposal may repeal, change or modify by implication, or may be construed by some persons to repeal, change or modify by implication, Article IV, Section 4, Article V, Sections 8, 19, 25(a) and (b), 25(c)(1), 25(c)(2), 25(d), 25(e), 25(f), and 25(g) of the Constitution of Missouri.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

To amend Sections 8, 19, and 25(a), and enact Sections 1(a), and 25(h) of Article V of the Constitution of Missouri to read as follows:

Section 1(a). 1. Judges of the supreme court and court of appeals shall be appointed by the governor with the advice and consent of the senate.

2. The people's elected representatives, rather than committees controlled by lawyers, should control the selection of appellate judges. This follows the original plan of the Missouri Constitution and the plan of our federal government. It derives from the principle that all political power is vested in and derived from the people, and all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole, and further, that all courts of justice shall be open to every person without sale, denial, or delay. Judges shall therefore be accountable to the citizens of this state, this constitution, and the United States Constitution, and not beholden to any particular association or alliance of lawyers, judges, or interest groups. To accomplish this purpose, as set forth in sections 25(a) through (g), judges of the supreme court and court of appeals shall henceforth be appointed by the governor with the advice and consent of the senate, and shall no longer be selected by the governor from nominations made by commissions of lawyers, judges, and the governor's chosen appointees. Voters in most circuits shall continue to have the ability to choose the method by which circuit and associate circuit judges are selected. Section 1(a) and sections 25(a) through (g) shall be known as the "Missouri Nonpartisan Court Plan."

Section 8. [The judges of the supreme court shall elect from their number a] The chief justice [to] shall preside over the supreme court en banc, and the judges of the court of appeals in each district shall elect from their number a chief judge of the district. The terms of the [chief justice and] chief judges shall be fixed by the courts over which they preside. The chief justice of the supreme court shall be the chief administrative officer of the judicial system and, subject to the supervisory authority of the supreme court, shall supervise the administration of the courts of this state.

Section 19. Judges [of the supreme court and of the court of appeals shall be selected for terms of twelve years, judges] of the circuit courts shall be selected for terms of six years, and associate circuit judges for terms of four years. The governor's appointments of judges of the supreme court and court of appeals shall be for life except as otherwise provided in this constitution. The governor rather than other judges of the supreme court shall appoint the chief justice. No vacancy on the supreme court or court of appeals shall be filled and no person appointed by the governor shall have authority to act unless the senate has actually provided its advice and consent.

Section 25(a). Whenever a vacancy shall occur in the office of [judge of any of the following courts of this state, to wit: The supreme court, the court of appeals, or in the office of] circuit or associate circuit judge within the city of St. Louis and Jackson County, the governor shall fill such vacancy by appointing one of three persons possessing the qualifications for such office, who shall be nominated and whose names shall be submitted to the governor by a nonpartisan judicial commission established and organized as hereinafter provided. If the governor fails to appoint any of the nominees within sixty days after the list of nominees is submitted, the nonpartisan judicial commission making the nomination shall appoint one of the nominees to fill the vacancy.

Section 25(h). The following transition provisions shall apply to the judges of the supreme court and court of appeals after the approval of new section 1(a)1. After 5:00 p.m. on December 8, 2022, the Appellate Judicial Commission shall dissolve, and every vacancy then existing shall be filled as set forth in section 1(a) 1. Each judge shall hold office for the remainder of his original term, after which the office shall be vacated and subject to appointment under section 1(a)1.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-005)

Subject

Initiative petition from Chris Vas regarding a proposed constitutional amendment to Article V. (Received December 30, 2020)

Date

January 19, 2021

Description

This proposal would amend Article V of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, St. Louis County Board of Elections, Board of Election Commissioners City of St. Louis, Kansas City Board of Election Commissioners, Platte County Board of Elections, Jackson County Election Board,** and **Clay County Board of Election Commissioners**.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact on their agency.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal should not impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal should not impact their office.

Officials from the **Office of State Courts Administrator** indicated in reference to this initiative petition, a proposed constitutional amendment to Article V, there may be some impact but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated they do not believe this initiative petition will have any cost or savings to their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated as this only affects the Supreme Court and Court of Appeals, there are no costs or savings to their county. Circuit judges remain on the ballot.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated this amendment will have no fiscal impact on their city.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from the **Metropolitan Community College** indicated no fiscal impact.

Officials from the **St. Louis County Election Board** indicated this petition would have no impact on their board.

Officials from the **Platte County Board of Elections** indicated this petition would have no fiscal impact on their board.

Officials from the **Jackson County Election Board** indicated this initiative petition would have no fiscal impact on their board.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, University of Missouri, St. Louis Community College, Board of Election Commissioners City of St. Louis, Kansas City Board of Election Commissioners,** and **Clay County Board of Election Commissioners**.

Fiscal Note Summary

State and local government entities estimate no costs or savings from this proposal.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 30, 2020

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
DEC 30 2020
STATE AUDITORS OFFICE

RE: Petition approval request from Chris Vas regarding a proposed constitutional amendment to Article I (2022-004)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Chris Vas on December 30, 2020.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

County_____
Page No._____

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

(Official Ballot Title)

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say (print or type names of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
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15.					

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY.

I am at least 18 years of age. I do □ do not □ (check one) expect to be paid for circulating this petition. If paid, list the payer _____

_____ _____
Signature of Affiant (Person obtaining signatures) Address of Affiant

_____
(Printed Name of Affiant)

Subscribed and sworn to before me this _____ day of _____, A.D. 20___.

_____ Notary Public (Seal)
Signature of Notary

_____ My commission expires _____
Address of Notary

RECEIVED
2020 DEC 30 AM 8:29
SECRETARY OF STATE

NOTICE: You are advised that the proposed amendment to the constitution changes, repeals, or modifies by implication, or may be construed to change, repeal or modify by implication, Article I of the Missouri Constitution and Chapter 290, RSMo. The proposed amendment revises Article I of the Constitution by amending section 29.

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article I is amended by revising section 29, to read as follows:

Section 29. That employees shall have the right to organize and to bargain collectively through representatives of their own choosing. That every employee shall have the freedom to work without being forced to pay any fees to a union or join a union as a condition of employment, such that no person shall be required as a condition of employment or continued employment to: (1) become, remain, or refrain from becoming a member of a labor organization; or (2) pay any dues, fees, assessments, or other similar charges however denominated of any kind or amount to a labor organization or third party in lieu thereof.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-004)

Subject

Initiative petition from Chris Vas regarding a proposed constitutional amendment to Article I. (Received December 30, 2020)

Date

January 19, 2021

Description

This proposal would amend Article I of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **Kansas City Board of Police Commissioners,** the **Metropolitan Police Department - City of St. Louis, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest**

Missouri State University, Southeast Missouri State University, and **Truman State University**.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal should not impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of the proposal.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal amends Article I Section 29 of the Missouri Constitution. This proposal should not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have any significant impact on the Missouri Public Defender System.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate no costs or savings from this initiative petition.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated this amendment will have no fiscal impact on their city.

Officials from **State Technical College of Missouri** indicated there is no fiscal impact to their college.

Officials from the **Metropolitan Community College** indicated no fiscal impact.

Officials from the **University of Missouri** indicated there would be no significant financial impact on their university.

Officials from the **University of Central Missouri** indicated they estimate no fiscal impact.

Officials from the **Metropolitan Police Department - City of St. Louis** indicated this proposed change would not have any estimated costs or savings for the City of St. Louis-Police Division.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, St. Louis Community College,** the **Kansas City Board of Police Commissioners, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest**

Missouri State University, Southeast Missouri State University, and **Truman State University**.

Fiscal Note Summary

State and local government entities estimate no costs or savings from this proposal.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

December 29, 2020

RECEIVED
DEC 29 2020
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Winston Apple regarding a proposed constitutional amendment to Article III (2022-003)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Winston Apple on December 29, 2020.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

County _____

INITIATIVE PETITION

Page No. _____

22-003

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
2020 DEC 29 AM 8:21
JOHN ASHCROFT
SEC. OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
1						
2						
3						
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Street Address of Affiant

_____
Printed Name of Affiant

_____
City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____, A.D. _____

(Seal)

_____
Signature of Notary

_____
Address of Notary

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article III of the Constitution is revised by amending Sections 3, 5, 6, 7, 8, 9, 10, 11, 13, 14, 20(d), and 45 to read as follows:

III Section 3. [(a)] The house of representatives shall consist of [one hundred sixty-three members] ten members from each congressional district, elected at each general election [and redistricted] as provided in this [section] article.

[(b) The house independent bipartisan citizens commission shall redistrict the house of representatives using the following methods, listed in order of priority:

(1) Districts shall be as nearly equal as practicable in population, and shall be drawn on the basis of one person, one vote. Districts are as nearly equal as practicable in population if no district deviates by more than one percent from the ideal population of the district, as measured by dividing the number of districts into the statewide population data being used, except that a district may deviate by up to three percent if necessary to follow political subdivision lines consistent with subdivision (4) of this subsection;

(2) Districts shall be established in a manner so as to comply with all requirements of the United States Constitution and applicable federal laws, including, but not limited to, the Voting Rights Act of 1965 (as amended). The following principles shall take precedence over any other part of this constitution: no district shall be drawn in a manner which results in a denial or abridgment of the right of any citizen of the United States to vote on account of race or color; and no district shall be drawn such that members of any community of citizens protected by the preceding clause have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice;

(3) Subject to the requirements of subdivisions (1) and (2) of this subsection, districts shall be composed of contiguous territory as compact as may be. Areas which meet only at the points of adjoining corners are not contiguous. In general, compact districts are those which are square, rectangular, or hexagonal in shape to the extent permitted by natural or political boundaries;

(4) To the extent consistent with subdivisions (1) to (3) of this subsection, communities shall be preserved. Districts shall satisfy this requirement if district lines follow political subdivision lines to the extent possible, using the following criteria, in order of priority. First, each county shall wholly contain as many districts as its population allows. Second, if a county wholly contains one or more districts, the remaining population shall be wholly joined in a single district made up of population from outside the county. If a county does not wholly contain a district, then no more than two segments of a county shall be combined with an adjoining county. Third, split counties and county segments, defined as any part of the county that is in a district not wholly within that county, shall each be as few as possible. Fourth, as few municipal lines shall be crossed as possible;

(5) Districts shall be drawn in a manner that achieves both partisan fairness and, secondarily, competitiveness, but the standards established by subdivisions (1) to (4) of this subsection shall take precedence over partisan fairness and competitiveness. "Partisan fairness" means that parties shall be able to translate their popular support into legislative representation with approximately equal efficiency. "Competitiveness" means that parties' legislative representation shall be substantially and similarly responsive to shifts in the electorate's preferences.

To this end, the average electoral performance of the two political parties receiving the most votes in the three preceding general elections for governor, for United States Senate, and for President of the United States shall be calculated. This index shall be defined as the total votes received by each party in the three preceding general elections for governor, for United States Senate, and for President of the United States, divided by the total votes cast for both parties in these elections. Using this index, the total number of wasted votes for each party, summing across all of the districts in the plan shall be calculated. "Wasted votes" are votes cast for a losing candidate or for a winning candidate in excess of the threshold needed for victory. In any redistricting plan and map of the proposed districts, the difference between the two parties' total wasted votes, divided by the total votes cast for the two parties, shall not exceed fifteen percent.

To promote competitiveness, the electoral performance index shall be used to simulate elections in which the hypothetical statewide vote shifts by one percent, two percent, three percent, four percent, and five percent in favor of each party. The vote in each individual district shall be assumed to shift by the same amount as the statewide vote. In each of these simulated elections, the difference between the two parties' total wasted votes, divided by the total votes cast for the two parties, shall not exceed fifteen percent.

(c) Within sixty days after the population of this state is reported to the President for each decennial census of the United States or, in the event that a redistricting plan has been invalidated by a court of competent jurisdiction, within sixty days that such a ruling has been made, the state committee and the congressional district committees of each of the two political parties casting the highest vote for governor at the last preceding general election shall meet and the members of each committee shall nominate, by a majority vote of the elected members of the committee present, provided that a majority of the elected members is present, members of their party, residents in that district, in the case of a congressional district committee, as nominees for the house independent bipartisan citizens commission. No party shall select more than one nominee from any one state legislative district. The congressional district committees shall each submit to the governor their list of two elected nominees. The state committees shall each submit to the governor their list of five elected nominees. Within thirty days thereafter, the governor shall appoint a house independent bipartisan citizens commission consisting of one nominee from each list submitted by each congressional district committee and two nominees from each list submitted by each state committee to redistrict the state into one hundred and sixty-three representative districts and to establish the numbers and boundaries of said districts. No person shall be appointed to both the house independent bipartisan citizens commission and the senate independent bipartisan citizens commission during the same redistricting cycle.

If any committee fails to submit a list within such time, the governor shall appoint a member of his or her own choice from the political party of the committee failing to submit a list, provided that in the case of a congressional district committee failing to submit a list, the person appointed to the commission by the governor shall reside in the congressional district of such committee.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final redistricting plan.

For the purposes of this Article, the term congressional district committee or congressional district refers to the congressional district committee or the congressional district from which a congressman was last elected, or, in the event members of congress from

this state have been elected at large, the term congressional district committee refers to those persons who last served as the congressional district committee for those districts from which congressmen were last elected, and the term congressional district refers to those districts from which congressmen were last elected. Any action pursuant to this section by the congressional district committee shall take place only at duly called meetings, shall be recorded in their official minutes and only members present in person shall be permitted to vote.

(d) The commissioners so selected shall, on the fifteenth day, excluding Sundays and state holidays, after all members have been appointed, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the clerk of the house of representatives within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

(e) Not later than five months after the appointment of the commission, the commission shall file with the secretary of state a tentative redistricting plan and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons. The commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map.

(f) Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

(g) After the final statement is filed, members of the house of representatives shall be elected according to such districts until a new redistricting plan is made as provided in this section, except that if the final statement is not filed within six months of the time fixed for the appointment of the commission, the commission shall stand discharged and the house of representatives shall be redistricted using the same methods and criteria as described in subsection (b) of this section by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its redistricting plan and map with the secretary of state within ninety days of the date of the discharge of the house independent bipartisan citizens commission. The judicial commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map. Thereafter, members of the house of representatives shall be elected according to such districts until a redistricting plan is made as provided in this section.

(h) Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session but not more than one thousand dollars, and, in addition, shall be reimbursed for his or her actual and necessary expenses incurred while serving as a member of the commission.

(i) No redistricting plan shall be subject to the referendum.

(j) Any action expressly or implicitly alleging that a redistricting plan violates this Constitution, federal law, or the United States Constitution shall be filed in the circuit court of Cole County and shall name the body that approved the challenged redistricting plan as a defendant. Only an eligible Missouri voter who sustains an individual injury by virtue of residing in a district that exhibits the alleged violation, and whose injury is remedied by a differently drawn district, shall have standing. If the court renders a judgment in which it finds that a completed redistricting plan exhibits the alleged violation, its judgment shall adjust only those districts, and only those parts of district boundaries, necessary to bring the map into compliance. The supreme court shall have exclusive appellate jurisdiction upon the filing of a notice of appeal within ten days after the judgment has become final.]

III Section 4. Each representative shall be twenty-four years of age, and next before the day of his election shall have been a qualified voter [for two years] and a resident of the [county or] district which <u>she or</u> he is chosen to represent for one year, if such [county or] district shall have been so long established, and if not, then of the [county or] district from which the same shall have been taken.

III Section 5. [The] <u>With the exception of the number of senators and the length of term of senators elected to serve in the one-hundred-and-third General Assembly as provided for in Article III, Section 11, the</u> senate shall consist of [thirty-four] <u>twenty-one</u> members elected by the qualified voters of the [senatorial districts] <u>state of Missouri</u> for a term of [four] <u>two</u> years. [Senatorial districts shall be apportioned as provided for in Article III, Section 7.]

III Section 6. Each senator shall be thirty years of age, and next before the day of <u>her or</u> his election shall have been a qualified voter [of the state for three years] and a resident of the [district which he is chosen to represent] <u>state of Missouri</u> for one year[, if such district shall have been so long established, and if not, then of the district or districts from which the same shall have been taken].

III Section 7. [(a) Within sixty days after the population of this state is reported to the President for each decennial census of the United States, or within sixty days after a redistricting plan has been invalidated by a court of competent jurisdiction, the state committee and the congressional district committees of each of the two political parties casting the highest vote for governor at the last preceding general election shall meet and the members of each committee shall nominate, by a majority vote of the elected members of the committee present, provided that a majority of the elected members is present, members of their party, residents in that district, in the case of a congressional district committee, as nominees for the senate independent bipartisan citizens commission. No party shall select more than one nominee from any one state legislative district. The congressional district committees shall each submit to the governor their list of two elected nominees. The state committees shall each submit to the governor their list of five elected nominees. Within thirty days thereafter the governor shall appoint a senate independent bipartisan citizens commission consisting of two nominees from each list submitted by each state committee and one nominee from each list submitted by each congressional district committee, to redistrict the thirty-four senatorial districts and to establish the numbers and boundaries of said districts. No person shall be appointed to both the house independent bipartisan citizens commission and the senate independent bipartisan citizens commission during the same redistricting cycle.

If any committee fails to submit a list within such time, the governor shall appoint a member of his or her own choice from the political party of the committee failing to submit a list, provided that in the case of a congressional district committee failing to submit a list, the person appointed to the commission by the governor shall reside in the congressional district of such committee.

Members of the commission shall be disqualified from holding office as members of the general assembly for four years following the date of the filing by the commission of its final redistricting plan.

(b) The commissioners so selected shall, on the fifteenth day, excluding Sundays and state holidays, after all members have been appointed, meet in the capitol building and proceed to organize by electing from their number a chairman, vice chairman and secretary. The commission shall adopt an agenda establishing at least three hearing dates on which hearings open to the public shall be held to hear objections or testimony from interested persons. A copy of the agenda shall be filed with the secretary of the senate within twenty-four hours after its adoption. Executive meetings may be scheduled and held as often as the commission deems advisable.

(c) The senate independent bipartisan citizens commission shall redistrict the senate using the same methods and criteria as those required by subsection (b), section 3 of this Article for the redistricting of the house of representatives.

(d) Not later than five months after the appointment of the senate independent bipartisan citizens commission, the commission shall file with the secretary of state a tentative redistricting plan and map of the proposed districts and during the ensuing fifteen days shall hold such public hearings as may be necessary to hear objections or testimony of interested persons. The commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map.

(e) Not later than six months after the appointment of the commission, the commission shall file with the secretary of state a final statement of the numbers and the boundaries of the districts together with a map of the districts, and no statement shall be valid unless approved by at least seven-tenths of the members.

(f) After the final statement is filed, senators shall be elected according to such districts until a new redistricting plan is made as provided in this section, except that if the final statement is not filed within six months of the time fixed for the appointment of the commission, the commission shall stand discharged and the senate shall be redistricted using the same methods and criteria as described in subsection (b) of section 3 of this Article by a commission of six members appointed from among the judges of the appellate courts of the state of Missouri by the state supreme court, a majority of whom shall sign and file its redistricting plan and map with the secretary of state within ninety days of the date of the discharge of the senate independent bipartisan citizens commission. The judicial commission shall make public the tentative redistricting plan and map of the proposed districts, as well as all demographic and partisan data used in the creation of the plan and map. Thereafter, senators shall be elected according to such districts until a redistricting plan is made as provided in this section.

(g) Each member of the commission shall receive as compensation fifteen dollars a day for each day the commission is in session, but not more than one thousand dollars, and, in addition, shall be reimbursed for his or her actual and necessary expenses incurred while serving as a member of the commission.

(h) No redistricting plan shall be subject to the referendum.

(i) Any action expressly or implicitly alleging that a redistricting plan violates this Constitution, federal law, or the United States Constitution shall be filed in the circuit court of Cole County and shall name the body that approved the challenged redistricting plan as a defendant. Only an eligible Missouri voter who sustains an individual injury by virtue of residing in a district that exhibits the alleged violation, and whose injury is remedied by a differently drawn district, shall have standing. If the court renders a judgment in which it finds that a completed redistricting plan exhibits the alleged violation, its judgment shall adjust only those districts, and only those parts of district boundaries, necessary to bring the map into compliance. The supreme court shall have exclusive appellate jurisdiction upon the filing of a notice of appeal within ten days after the judgment has become final.]

(a) Beginning with the election of senators and representatives to be held in the year two thousand and twenty-four there will be no primary election for those offices. For the general election, all candidates who file to run and are qualified to run, for the general assembly will be listed on the ballot in the congressional district in which they reside, grouped by political party affiliation. Independent candidates will be grouped together on the ballot.

(b) General elections shall be carried out using a system of ranked choice voting under which each voter shall be able to rank a minimum of three candidates for the general assembly in order of preference. If feasible, the ballot shall permit voters to rank up to ten candidates for the general assembly, or as close to that number as feasible. Voters shall be able to request a general ballot listing all of the candidates for all political parties and all independent candidates, a single-party ballot listing only the candidates of a single political party, or a ballot listing only independent candidates.

(c) A number of spaces equal to the number of choices voters are able to rank shall be provided to write in the names of candidates not appearing on the ballot. All write-in candidates who have properly registered with the secretary of state will be treated as independent candidates when votes are tabulated. Write-in votes may also be cast for candidates for the general assembly who are on the ballot in districts other than a voter's district. The ballot shall be simple and easy to understand, with instructions necessary to enable voters to successfully cast ballots under the system.

(d) The results of each general election will be tabulated in two rounds. In the first round of tabulation only first-choice votes will be counted and the one hundred and one candidates who receive the most first-choice votes are elected to the general assembly. In the second round of tabulation the lower-ranked votes of voters who cast first-choice votes for candidates who were not elected shall be distributed among the candidates who were elected, with a single vote for the highest ranked preference of each such voter being transferred to a candidate who was elected.

(e) If a voter inadvertently casts a vote for more than a single candidate among any of their ranked choices each candidate listed will be given the appropriate fraction of a whole vote. If a voter inadvertently fails to fill in a choice among their ranked choices but has additional lower-ranked choices, the missing ranked choice will be ignored. A ballot with no remaining choices for candidates who were elected is an "exhausted ballot" and shall be set aside.

(f) The five candidates who receive the most votes state-wide and meet the qualifications to serve as senators are elected to the senate. The two candidates from each congressional district who received the most votes, who were not elected to serve as at-large senators and who meet the qualifications to serve as senators are also elected to the senate. The ten candidates from each congressional district receiving the next highest vote totals are elected to the house of representatives.

(g) Officials shall determine a random selection algorithm, prior to tabulation, to resolve ties between candidates for the last remaining seat, or seats, in the general assembly or to determine which members are elected to the senate.

(h) Candidates who are elected to the general assembly shall be given weighted votes in all matters before the general assembly based on the total number of votes each member received. The value of each member's weighted vote shall be determined by dividing the number of votes received by each member by the number of votes received by the member of the house of representatives with the lowest number of votes.

(i) A political party having no candidate for the general assembly or statewide office receiving at least one percent of the total vote in the preceding general election, may qualify for a place on the ballot for the general assembly in each congressional

district by presenting petitions signed by one per cent of the legal voters in that congressional district. An independent candidate may qualify for a place on the ballot in a congressional district by presenting petitions signed by one-half of one percent of the legal voters in the congressional district in which they reside. The number of "legal voters" is equal to, and determined by, the total vote for governor in the general election last preceding. Said petitions are to be delivered to the secretary of state no later than one hundred and twenty days preceding the general election.

(j) The signatures on petitions submitted by independent candidates and political parties shall be subject to verification according to the procedures in the code of state regulations for independent candidate petitions in force at the time the petitions are submitted.

III Section 8. No one shall be elected to serve more than [eight years total in any one house of the General Assembly nor more than] sixteen years total in [both houses of] the General Assembly. In applying this section, service in the General Assembly resulting from an election prior to December 3, 1992, or service of less than one year, in the case of a member of the house of representatives, or two years, in the case of a member of the senate, by a person elected after the effective date of this section to complete the term of another person, shall not be counted.

III Section 9. Until the convening of the Seventy-fourth General Assembly the House of Representatives shall consist of one hundred sixty-three members elected from the one hundred sixty-three representative districts, as they existed January 1, 1965. Beginning with the election of representatives in the primary and general elections to be held in the year two thousand and twenty-four the House of Representatives shall consist of ten members elected from each congressional district.

III Section 10. [The last decennial census of the United States shall be used in apportioning representatives and determining the population of senatorial and representative districts. Such districts may be altered from time to time as public convenience may require.] If the Congress of the United States passes legislation allowing the state of Missouri to elect its representatives to the House of the Congress of the United States at-large or from multiple-member districts, the general assembly shall by law continue to divide the state into a number of districts corresponding with the number of representatives to which it is entitled, composed according to the guidelines provided in Section III, Article 45 and those districts shall continue to be used in electing members of the Missouri house of representatives.

III Section 11. The first election of senators and representatives under this constitution, shall be held at the general election in the year one thousand nine hundred and forty-six when the whole number of representatives and the senators from the districts having even numbers, who shall compose the first class, shall be elected, and two years thereafter the whole number of representatives and the senators from districts having odd numbers, who shall compose the second class, shall be elected, and so on at each succeeding general election. Beginning with the general election to be held in the year two thousand and twenty-four, senators will no longer be divided into two classes. For the election held in the year two thousand and twenty-four only, the senators from the class elected in the year two thousand and twenty-two will continue to serve for the remainder of the term to which they were elected. In the election held in the year two-thousand and twenty-four, the names of the senators from that class will not appear on the ballot, but voters may cast write-in votes for those senators and those write-in votes will be added to the number of votes senators of that class received in the election of two-thousand and twenty-two to determine the value of each senator's weighted vote.

III Section 13. If any senator or representative removes her or his residence from the [district or county for which he was elected, his] state of Missouri, their office shall thereby be vacated. If any senator or representative removes her or his residence from the district from which they were elected, they may serve out their term as long as they continue to reside in Missouri.

III Section 14. [Writs of election to fill v] Vacancies in either house of the general assembly shall be filled by the candidate who would next have been elected at the last general election if the member vacating the office had not been elected [issued by the governor].

III Section 20(d). If any provision of sections 2, 3, 5, 6, 7, 8, 9, 10, 11, 14, 19, [or] 20(c), or 45 or the application thereof to anyone or to any circumstance is held invalid, the remainder of those provisions and the application of such provisions to others or other circumstances shall not be affected thereby.

III Section 45. When the number of representatives to which the state is entitled in the House of the Congress of the United States under the census of 1950 and each census thereafter is certified to the governor, the general assembly shall by law divide the state into districts corresponding with the number of representatives to which it is entitled, which districts shall be composed of contiguous territory as compact and as nearly equal in population as may be. If Congress enacts legislation giving states the right to elect members of the House of the Congress of the United States from either multiple-member districts or at-large, the state of Missouri shall elect its members at-large, if given a choice of the two, or from multiple-member districts, if that is the only choice, with those multiple-member districts composed of contiguous territory as compact and as nearly equal in population as may be.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

November 25, 2020

RECEIVED
NOV 25 2020
STATE AUDITORS OFFICE

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Ryan Meyer regarding a proposed constitutional amendment to Article I, Section 36 (2022-002)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Ryan Meyer on November 24, 2020.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollar sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is r

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
NOV 24 2020
MO. SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	
1						
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3						
4						
5						
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each sign _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HA PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____
Signature of Affiant (Person obtaining signatures)

_____
Printed Name of Affiant

_____
Street Address of Affiant

_____
City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____

_____
Signature of Notary

_____
Address of Notary

22-002

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article I is amended by adding and adopting two new sections to be known as Section 36 and Section 36(a).

Section 36. The jury or judge as the trier of the facts in civil actions or torts shall not be limited in their judgment to award a claimant any and all damages that they may deem fair and just. Nor shall the trier of the facts be limited in factors to be considered in calculation of damages, including but not limited to any such factors as pain, suffering, grief, or bereavement.

Section 36(a). Section 36 and Section 36(a) of Article I of this Constitution shall only be amended by affirmation of the voters of Missouri following the constitutional petition process defined in Article III Section 50 of this Constitution.

JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

RECEIVED
NOV 25 2020
STATE AUDITORS OFFICE

November 25, 2020

The Honorable Nicole Galloway
State Auditor
State Capitol Building
Jefferson City, MO 65101

RE: Petition approval request from Ryan Meyer regarding a proposed constitutional amendment to Article I, Section 29 (2022-001)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Ryan Meyer on November 24, 2020.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by Section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

John R. Ashcroft

cc: Hon. Eric S. Schmitt
Sheri Hoffman
Trish Vincent

STAPLE HERE

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollar sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is r

INITIATIVE PETITION

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:
We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted rejection, at the general election to be held on the 8th day of November, 2022, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ voting address and the name of the city, town or village in which I live are correctly written after my name.

RECEIVED
NOV 24 2020
MO. SECRETARY OF STATE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

	Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signe _____ County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HA PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

_____ Signature of Affiant (Person obtaining signatures)

_____ Printed Name of Affiant

_____ Street Address of Affiant

_____ City, State and Zip Code of Affiant

Subscribed and sworn to before me this _____ day of _____

_____ Signature of Notary

_____ Address of Notary

22-001

Be it resolved by the people of the state of Missouri that the Constitution be amended:

Article I is amended by adding and adopting seven new sections to be known as Sections 29(a), 29(b), 29(c), 29(d), 29(e), 29(f), and 29(g).

Section 29(a). For purposes of collective bargaining in this Constitution, the term "employees" shall be defined as any two or more persons selling their labor who choose to bargain collectively with the same purchaser of labor. For purposes of collective bargaining in this Constitution, the term "employer" shall be defined as a purchaser of labor rendered by employees.

Section 29(b). The right of employees and employers to collectively bargain shall be absolute. All employees shall be entitled to this absolute right regardless of the manner in which they sell their labor whether public, private, or otherwise. No act or statute shall have authority to restrict, restrain, or otherwise affect or interfere with any collective bargaining agreement, contract, or covenant. No act or statute shall have authority to restrict, restrain, or otherwise affect or interfere with the method, means, or process of deliberation or certification of any collective bargaining agreement, contract, or covenant. No act or statute shall have authority to restrict, restrain, or otherwise affect or interfere with any union security agreement of any collective bargaining agreement, contract, or covenant. No act or statute shall have authority to restrict, restrain, or otherwise affect or interfere with the exercise of said right by any employee or employer in the production of any crop, any livestock, any good, or any service.

Section 29(c). In order to ensure the freedom of speech or effectiveness otherwise of employees' bargaining representative or representative organization, and in the event federal law, regulation, or court order prevent the full collection of dues or other means of compensation, the bargaining representative or organization may condition full collection of dues or other means of compensation directly from the employer within the bargained agreement, contract, or covenant, regardless of public or private nature of the employer.

Section 29(d). The right of employees to strike shall be absolute. In order to preserve the public welfare, the legislature may pass reasonable legislation to ensure continuity of service for electricity, water, or heat.

Section 29(e). Nothing in Sections 29, 29(a), 29(b), 29(c), 29(d), 29(e), 29(f), and 29(g) of Article I of this Constitution shall be interpreted to conflict with the law or Constitution of the United States or rulings of any United States court of competent jurisdiction over the state of Missouri.

Section 29(f). Sections 29, 29(a), 29(b), 29(c), 29(d), 29(e), 29(f), and 29(g) of Article I of this Constitution shall only be amended by affirmation of the voters of Missouri following the constitutional petition process defined in Article III Section 50 of this Constitution.

Section 29(g). No section hereunder shall affect the validity or enforcement of any contract in effect at the time of the section's execution.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-007)

Subject

Initiative petition from Winston Apple regarding a proposed constitutional amendment to Article III. (Received January 5, 2021)

Date

January 25, 2021

Description

This proposal would amend Article III of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College,** the **St. Louis County Board of Elections,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Platte County Board of Elections,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated no fiscal impact.

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition.

Officials from the **Department of Revenue** indicated no impact.

Officials from the **Department of Public Safety - Office of the Director** indicated no impact for their department.

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal amends Article III of the Missouri Constitution by repealing Section 10 and amending Sections 3, 5, 6, 7, 8, 9, 11, 13, 14, 20(d), and 45.

The proposed amendment would:

- Change the number of House of Representatives members from 163 to 10 members from each of the State's Congressional districts;
- Remove the requirement that House members have been a qualified voter for two years and require House members to be residents of the district rather than the county or district.
- Change the number of Senators from 34 to 3 members from each congressional district and reduce their term from 4 to 2 years.
- Eliminate the House and Senate independent bipartisan citizens commissions and their duties.
- Change the election process for Representatives and Senators. Beginning with the 2024 election, there will be no primary, and the general election shall be carried out using a system of ranked choice voting.
- Limit members to 16 total years in the General Assembly, removing the current limit of 8 years in any one house.
- Allow members to serve out their term if they move out of their district but remain in Missouri.
- Remove current language granting the Governor the authority to issue writs of election to fill vacancies in either house of the General Assembly. Instead, vacancies would be filled using rankings, with Senate vacancies filled by House members.
- Provide guidance for at large or multiple member districts if allowed by Congress.

Other than the repeal of current Section 14 language granting the Governor the authority to issue writs of election to fill House and Senate vacancies, this proposal should not impact their office.

Officials from the **Missouri House of Representatives** indicated the impact to the House is as follows:

FY25-Impact on half the fiscal year.
Cost savings of ($3,966,931.05)

FY26-will be the first year they realize the full impact of the reduction in membership.
Cost savings of ($7,076,222.27)

The costs savings come from member salaries, per diem, member mileage, member expense accounts, and a reduction in the number of legislative assistant staff needed. They assume the Office of Administration may show the temporary unknown increased cost for

any legislative assistants that would have to be laid off and the impact it may have on state unemployment payments. They also provided the following information:

Member Yearly Cost

Member Salary	$35,915.00
Per diem	$8,456.00 [1]
Mileage	$1,877.01 [2]
Member Expense	$8,400.00 [3]
LA	$30,607.68 [4]
Total Yearly Avg Cost	**$85,255.69**

[1] Based on $120.80 x 70 days of session

[2] Based on average member mileage of 267 a week x .37 a mile x 19 weeks of session

[3] Based on $700 a month for a year

[4] Based on average LA salary

at 163 members

Member Salary	$5,854,145.00
Per diem	$1,378,328.00
Mileage	$305,952.63
Member Expense	$1,369,200.00
LA	$4,989,051.84
	$13,896,677.47

Calculator

Proposed # of Members	**80**	Difference
Member Salary	$2,873,200.00	($2,980,945.00)
Per diem	$676,480.00	($701,848.00)
Mileage	$150,160.80	($155,791.83)
Member Expense	$672,000.00	($697,200.00)
LA	$2,448,614.40	($2,540,437.44)
Total Yearly Avg Cost	**$6,820,455.20**	
Difference from Current #	($7,076,222.27)	

Monthly expenses		
Member Salary	$2,992.92	
Per Diem	$676,480.00	
Mileage	$156.42	mileage is not calculated by month, see calculation below
Member Expense	$700.00	
LA	$2,550.64	

1st year Calculations

1/2 yr @163	
Member Salary	$2,927,072.50
Per diem	$0.00
Mileage	$0.00
Member Expense	$684,600.00
LA	$2,494,525.92
Total	$6,106,198.42

per diem and mileage for first half of the fiscal year assumes no special sessions, so no per diem & mileage paid out

1/2 yr @80	
Member Salary	$1,436,600.00
Per diem	$676,480.00
Mileage	$150,160.80
Member Expense	$336,000.00
LA	$1,224,307.20
Total	$3,823,548.00

Per diem & mileage is for all 70 days of session for 2nd half of fiscal year

Total cost for first year	
Member Salary	$4,363,672.50
Per diem	$676,480.00
Mileage	$150,160.80
Member Expense	$1,020,600.00
LA	$3,718,833.12
Total	$9,929,746.42

difference from normal year expenses	-$3,966,931.05

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated this initiative petition would have no fiscal impact to their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal amends Article III of the Missouri Constitution by repealing Section 10 and amending Sections 3, 5, 6, 7, 8, 9, 11, 13, 14, 20(d), and 45.

The proposed amendment would:

- Change the number of House of Representatives members from 163 to 10 members from each of the State's Congressional districts;
- Remove the requirement that House members have been a qualified voter for two years and require House members to be residents of the district rather than the county or district.
- Change the number of Senators from 34 to 3 members from each congressional district and reduce their term from 4 to 2 years.
- Eliminate the House and Senate independent bipartisan citizens commissions and their duties.
- Change the election process for Representatives and Senators. Beginning with the 2024 election, there will be no primary, and the general election shall be carried out using a system of ranked choice voting.
- Limit members to 16 total years in the General Assembly, removing the current limit of 8 years in any one house.
- Allow members to serve out their term if they move out of their district but remain in Missouri.
- Remove current language granting the Governor the authority to issue writs of election to fill vacancies in either house of the General Assembly. Instead, vacancies would be filled using rankings, with Senate vacancies filled by House members.
- Provide guidance for at large or multiple member districts if allowed by Congress.

This proposal should not impact their office.

There could be an unknown temporary cost associated with unemployment payments for laid off staff. Not knowing the number of legislative assistants that might be laid off or how many would apply for unemployment benefits, this is not a cost that they included in their fiscal note response.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate a fiscal savings if Article III is amended as outlined in the initiative petition. In summary, reducing the number of Senators from 34 to 24 would create an overall savings of approximately $946,482 ($750,000 in one-time costs and $1,696,482 in annual savings). They also provided the following information:

Initiative Petition 22-007 to Amend Article III

Modifies provisions relating to the number of House and Senate Districts
Changes the number of Senators from 34 to 3 members from each congressional district (3*8 = 24 Senators)
Changes the term for Senators from 4 years to 2 years

EXPENSE	Appropriation	EST SAVINGS PER EACH	TOTAL EST SAVINGS X -10	Notes
Senators' Mileage	0004	(1,931.40)	(19,314.00)	Statutory Appropriation - average total miles of current senators used in calculation 261 X .37 X 20 weeks
Senators' Per Diem	0005	(8,344.00)	(83,440.00)	Statutory Appropriation - current daily per diem $119.20 X 70 est total session days
Senators' Salary	0003	(35,914.80)	(359,148.00)	Statutory Appropriation - current legislator salary $1,496.45 X 24 pay periods
STATUTORY FISCAL IMPACT:		**(46,190.20)**	**(461,902.00)**	
Chamber reconfiguration	9801	400,000.00	400,000.00	One-time cost to reorganize desks and to recarpet the chamber
Electrical & Data in Chamber	9801	350,000.00	350,000.00	One-time cost for new console, conduit, data and sound, electrical jacks and microphone, xray and drill into chamber floor
Annual Budget	9801	(123,458.00)	(1,234,580.00)	Annual cost for Senators annual budget to pay personnel, mailings, district travel and office expenses
SENATE CONTINGENT FISCAL IMPACT:		**626,542.00**	**(484,580.00)**	
TOTAL FISCAL IMPACT:		**$ 580,351.80**	**$ (946,482.00)**	

Officials from the **Secretary of State's office** indicated this petition would change the composition of the General Assembly and cause representatives and senators to be elected by congressional district using ranked-choice voting. At each general election, voters would see a list of all General Assembly candidates from their congressional district on their ballot, with the ability to rank their choices of at least three but possibly up to 10 candidates from each list. Additionally, voters shall be given the option to select between an all-party ballot, a single-party ballot, or a ballot containing only independent candidates. This consolidation may incur the following costs:

Reprogramming/Replacing voting machines: Voting machines in Missouri are currently programmed to accept only single-page ballots with a single vote per race – each of these machines would need to be reprogrammed to accept ranked-choice votes and provide for multiple-page ballots due to the potential for large numbers of candidates to file for General Assembly seats. Any machine that cannot be reprogrammed would need to be replaced with a new machine that does possess such capabilities. Either cost would be a new requirement that the state must assume under Article X, Section 21 of the Missouri Constitution.

As of the 2017 voting systems survey conducted by their office, local election authorities reported that they possessed 7,565 voting machines. The estimated cost for each new voting machine is $5,000. The total cost to the state will vary depending on the number of machines which are ready to accept ranked-choice votes or can be reprogrammed to do so. However, using total replacement of all machines as a maximum cost, this provision may result in a total impact to general revenue ranging from $0 up to $37,825,000.

Also, the separate ballots for each political party will create new ballot styles which must be coded into the machines. This will increase programming costs to the local election authorities by an unknown but possibly significant amount.

Postage Costs: mailing envelopes used to return absentee ballots are printed with business reply permits – pursuant to Section 115.285, RSMo., Local Election Authorities are reimbursed for these costs by their office at a current cost of $1.80 per envelope based on the current size and weight of the envelope and ballot; multiple-page ballots would increase these costs.

Ballot printing costs: Local election authorities bear the cost of printing ballots for each election – paying to print multiple page ballots would substantially increase printing costs. Additionally, each election authority will have an increased number of ballot styles to accommodate the separate ballots for each party, which would be reflected in the layout costs charged by their ballot vendor.

Due to situational variables, it is not possible to determine a concrete amount of fiscal impact to this measure (beyond the aforementioned machine replacements). However, the costs to the state and to local election authorities could be significant.

Officials from the **Office of the State Public Defender** indicated their office will have no fiscal impact as a result of this initiative petition.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following proportional costs to Clay County government as a result of this amendment—should it pass:

- Approximate printed general election ballots cost increase of ~$20,000.00***This is the only recurring cost per general election, the rest are one-time
- Approximate advertising for voter education cost increase of ~$500.00
- Approximate staff training cost increase of ~$1,000.00
- Approximate voting machine software upgrade cost increase of ~$10,000.00
- Approximate mapping updates cost increase of ~$500.00

Total estimated costs of $**32,000.00**. Only $12,000 one-time to upgrade, $20,000 every general election. No savings.

Officials from **Greene County** indicated it is estimated on an **annual basis to cost an additional $15,000** to conduct a ranked choice voting election in the County of Greene due to the additional software license fees that will need to be purchased to conduct it. It will also require a **one-time additional cost of $6,000** to purchase 2 new computers for the conduction of a ranked choice voting election. This does not include the individual programming costs that will likely increase for each election, as they cannot be faithfully estimated. This is due to the changing number of candidates running for each Missouri General Assembly legislative district seat in both the House and Senate that Greene County voters will be voting on in each election.

Estimated Cost to Conduct a November General Election:

Here's the difference in the layout and coding costs for this past November.

- **Non RCV** = Approximately $10,381.25 for layout, coding and audio.

- **RCV** = Approximately $11,234.00 for layout, coding and audio.

The additional costs for the November 2020 General election with a ranked choice voting model would have been an additional **$852.75** more.

It is difficult to provide a sound estimate regarding a ranked choice voting election, because it is completely contingent upon how many candidates there are for each race that will be ranked choice. The layout, coding, audio and expense for a race with two candidates and a write-in in a ranked choice vote election will become two races with four candidates and two write-ins, thereby increasing the cost.

This figure will begin to increase exponentially as additional candidates are added. For example, a race with three candidates and a write-in turns into three races with nine candidates and three write-ins.

Here is an example of how the ballot layout will change, which will require additional coding costs to allow for the ranked choice voting to take place.

State Representative

Candidate A

Candidate B

Candidate C

Write-in

Becomes…

State Representative Choice 1

Candidate A

Candidate B

Candidate C

Write-in

State Representative Choice 2

Candidate A

Candidate B

Candidate C

Write-in

State Representative Choice 3

Candidate A

Candidate B

Candidate C

Write-in

Officials from the **City of Kansas City** indicated this proposed amendment would have no fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact.

Officials from the **St. Louis County Board of Elections** indicated they estimate this petition to have a one-time fiscal note of about $30,000. They would have to upgrade their election software to include a system for ranked-choice voting, and they predict this would cost the above amount.

Officials from the **Platte County Board of Elections** indicated their existing equipment will handle ranked choice voting. They expect no significant costs or savings.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College,** the **Board of Election Commissioners City of St. Louis,** the **Kansas City Board of Election Commissioners,** the **Jackson County Election Board,** and the **Clay County Board of Election Commissioners.**

Fiscal Note Summary

The General Assembly is estimated to have approximately $750,000 in one-time costs and $8.8 million in annual savings. State and local governments could incur significant election-related costs of $48,000 to $38 million in one-time costs, and ongoing costs of at least $15,000 annually and at least $21,000 for each general election.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-059)

Subject

Initiative petition from Marc Ellinger regarding a proposed constitutional amendment to Article XIV of the Constitution of Missouri. (Received August 27, 2021)

Date

September 16, 2021

Description

This proposal would amend Article XIV of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University, Missouri Veterans**

Commission, Missouri Office of Prosecution Services, the **Kansas City Board of Police Commissioners,** and the **Metropolitan Police Department - City of St. Louis.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated there is no fiscal impact to their department from this initiative petition.

Officials from the **Department of Economic Development** indicated no fiscal impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated the total estimated net effect on all state funds for fiscal year 2023 would be negative $10,312,978, fiscal year 2024 would be $38,424,091, and fiscal year 2025 would $76,506,197. Initial/one-time costs total $2,431,790.

They indicated the proposed initiative petition allows existing medical marijuana licensed facilities to convert to a comprehensive license. It is assumed that some revenues (medical patients, caregivers, patient/caregiver cultivation ID cards, and medical marijuana tax) will be deposited into the existing Missouri Veterans' Health and Care Fund while all other revenues associated with facility licensure, facility certifications, personal cultivation registration ID cards, and adult use tax will be deposited into a new Veterans, Health, and Community Reinvestment Fund.

The proposed legislation could create new small business opportunities.

Space for 38 staff (2 full-time employees (FTE) for the Missouri Veterans' Health and Care Fund (0606) and 36 for the Veterans, Health, and Community Reinvestment Fund) will be required by fiscal year (FY) 2023: 38 FTE x 230 sq. ft. x $18.00 = $157,320 The staff will be located in Jefferson City.

Missouri Veterans' Health and Care Fund 0606

Section 1.3(5) – The previous confidentiality provision has been replaced with a provision making records subject to the Sunshine Law. The effect is that more records will be

releasable. In addition to this, the Department of Health and Senior Services (DHSS) is to establish a process for existing licensees to designate which portions of previously provided records should be protected as proprietary.

Their department requires two Associate Research Data Analysts with an annual salary of $43,000 to address these needs beginning December 2022.

Section 1.3(12) – Previously, patient/caregiver cultivation ID cards were valid for one year and cost $100. Under the initiative petition (IP), these cards are valid for 3 years and cost $50. The first cards issued will not expire until after December 1, 2025, which is FY 2026. This causes a reduction in annual revenue of $2,638,084 ($2,889,634 amount collected in state fiscal year (SFY) 2021 less-$251,550 projected in SFY 2023), $2,381,956 (($2,889,634 less -$507,678 projected in SFY 2024), $2,377,428 ($2,889,634 less -$512,207 projected in SFY 2025).

Section 1.3(19) Patient ID cards are currently valid for one year. Under the IP, these cards would be valid for three years. This would cause a reduction in annual revenue of $2,543,906 in FY 2023; $1,915,961 in FY 2024; and $1,905,109 in FY 2025 as the first cards issued will not expire until after December 1, 2025, which is FY26.

Section 1.3(20) – Previously, caregiver ID card were valid for one year. Under the IP, these cards are valid for 3 years. This causes a reduction in annual revenue as the first cards issued will not expire until after December 1, 2025, which is FY 2026. Annual revenue is estimated at FY 2023 $76,843; FY 2024 $61,771; and $61,510.

Section 1.5(1) Out of state patients were not eligible to purchase medical marijuana in MO. Under the IP, they are, which will cause an increase in sales tax revenues. Based on data from Arkansas, who publishes temporary patient (reciprocity) licenses issued statistics, their department assumes out of state medical marijuana visitors will purchase an amount of medical marijuana equal to eleven percent of what Missouri's medical marijuana patient base purchases in a fiscal year.

Considering all changes in Section 1 there will be a reduction in new patient applications and its related fees. Their department estimates patient, caregiver, and patient cultivator applications and revenue received will be:

FY 23: $882,925 (30,286 patient, caregiver, and patient cultivation) + $1,129,523 (medical marijuana taxes) = $2,012,448

FY 24: $1,782,071 (60,574 patient, caregiver, and patient cultivation) + $3,845,957 (medical marijuana taxes) = $5,628,028

FY 25: $1,797,712 (60,574 patient, caregiver, and patient cultivation) $3,845,957 (medical marijuana taxes) = $5,643,669

A detail summary of projected revenue for SFY 2023 through SFY 2025 is attached **(Attachment A).**

Due to the reduction in-patient, caregiver, and patient cultivator applications, their department will eliminate 3 full-time Public Health Program Associate positions that process applications, with their annual salaries of $39,531 each.

There will be a reduction in the Missouri Veterans' Health and Care Fund from medical facility licenses converting to comprehensive licenses under Section 2. Their department anticipates certifications: Laboratory, Seed to Sale and Transportation will also move into Section 2. Their department anticipates a reduction in both license fees and certification fees with all future fees going to the new Veterans, Health, and Community Reinvestment Fund. The reduction will be FY 23 $6,344,857; FY 24 $5,163,434 and FY 25 $5,281,115.

Once all facilities convert to comprehensive licenses under Section 2 provisions, their department anticipates facility agents ID cards will no longer be required. Their department anticipates a reduction in revenues from the loss of these fees $289,502.

Relatedly, this results in reduced staffing costs as their department will no longer require 3 Public Health Program Associates with annual salaries of $39,531 each, who process facility agent applications.

Their department will also no longer require the contract for a facility agent application system, which eliminates an annual cost of $147,300.

Their department assumes all medical facility licenses will convert and will no longer pay annual or renewal fees under the Section 1. During the timeframe analyzed for this response, their department does not expect to issue new medical facility licenses to replace the licenses that converted. With no facility licenses operating under Section 1, the following full time positions would no longer be necessary and will move as operating expenditures to the new Veterans, Health, and Community Reinvestment Fund:

- Seven- Senior Regulatory Auditors who review minimum licensing standards, process change request per rule and audit licensure activities.
- One Regulatory Auditor Supervisor for management oversight.
- Fourteen- Compliance Inspectors that regulate medical marijuana licensed and certified facilities to comply with Missouri law through inspection and other regulatory tools, and provide compliance assistance;
- Four Compliance Inspection Supervisors for management oversight by region;
- One Regulatory Compliance Manager that oversees all licensed and certified medical marijuana facilities, and
- One Lead Administrative Support Assistant to support staff.

Their department assumes a **50/50** split in responsibilities between the two Funds for the following positions:

- One Section Director to provide leadership and program oversight;

- One Section deputy director to provide leadership and program oversight;
- Three legal counsel who handle license appeals and provide legal documents needed for licensure actions. These positions will represent 1.5 FTE;
- One Special Assistant Professional (Litigation Coordinator) who assists legal counsels as a paralegal;
- One Lead Administrative Support to support legal counsels;
- One Administrative Support Professional to support the Section Director, Deputy Director, and Operations Unit;
- One Program Coordinator to manage the Operations Unit and provide administrative logistical support across the program such as communications and program budget;
- One Staff Development Training Specialist to provide professional development and on-boarding of staff; and
- One Program Specialist to provide reporting and strategic development.

Veterans, Health, and Community Reinvestment Fund

The addition of Section 2 to Article XIV would have fiscal impact on DHSS include: Establishment of a Veterans, Health, and Community Reinvestment Fund**.** Establishing Section 2 of the Article XIV that would have fiscal impact on DHSS include:

Section 2.4(7) – Records, with certain exceptions, will be subject to the Sunshine Law.

Their department requires 1 Associate Research Data Analyst with an annual salary of $43,000 to address these needs to appropriately respond to the expected volume of requests for records.

Section 2.4(1)(d) – DHSS holds an existing third-party contract for seed-to-sale tracking of medical marijuana. Under the IP, the same seed-to-sale tracking services would be required for comprehensive marijuana and microbusiness facilities.

The additional cost to add comprehensive marijuana and microbusiness facilities into the existing seed-to-sale tracking system is $815,000 + for FY23 and $365,000 for FY24 and FY25.

Section 2.4(1)(c), 2.4(8)–(12), 2.4(23)– DHSS holds an existing third-party contract for accepting online application forms. Under the IP, similar application form services would be required for comprehensive marijuana and microbusiness facilities and consumer cultivation ID cards. The additional cost for an online system for these applications will be $527,700 for FY23 and $223,560 for FY24 and FY25.

2.4(4)(i) – Previously, licensees could choose to appeal denials and revocations through the Administrative Hearings Commission. Under the IP, licensees may also appeal a host of penalties to the AHC. Costs associated with this provision are included below.

Section 2.4(9) – Section 2 allows all medical facility licenses to convert to comprehensive licenses; their department assumes all medical facility licenses will convert. Fees for

comprehensive marijuana cultivation facilities will be $12,000 to apply or renew for the first three years of the program. The annual fee per license will be $25,000. Per Section 2.4(15)-(17), their department assumes there will be 60 comprehensive cultivation facilities within 60 days of the effective date of the new law. Revenues from annual fees for these licenses will be $1,500,000 in FY23, $1,513,500 in FY24, and $1,527,122 in FY25. After 1.5 years of the program, their department may issue additional comprehensive cultivation licenses, and assumes it will receive 400 applications during FY25 to issue 10 new licenses in December 2025. Revenues from 400 application and 10 annual fees will be $5,141,309 in FY25 totaling $6,668,431.

Section 2.4(10) – Section 2 allows all medical facility licenses to convert to comprehensive licenses, their department assumes all medical facility licenses will convert. Fees for comprehensive marijuana dispensary facilities will be $7,000 to apply or renew for the first three years of the program. The annual fee per license will be $10,000. Per Section 2.4(15)-(17), their department assumes there will be 192 comprehensive dispensary facilities within 60 days of the effective date of the new law. Revenues from annual fees for these licenses will be $1,920,000 in FY23, $1,937,280 in FY24, and $1,954,716 in FY25. After 1.5 years of the program, their department may issue additional comprehensive dispensary licenses, and assumes it will receive 200 applications during FY25 to issue 16 new licenses in December 2025. Revenues from 200 application and 16 annual fees will be $1,588,206 in FY25 totaling $3,542,922.

Section 2.4(11) – Section 2 allows all medical facility licenses to convert to comprehensive licenses, their department assumes all medical facility licenses will convert. Fees for comprehensive marijuana manufacturing facilities will be $7,000 to apply or renew for the first three years of the program. The annual fee per license will be $10,000. Per Section 2.4(15)-(17), their department assumes there will be 86 comprehensive manufacturing facilities within 60 days of the effective date of the new law. Revenues from annual fees for these licenses will be $860,000 in FY23, $867,740 in FY24, and $875,550 in FY25. After 1.5 years of the program, their department may issue additional comprehensive manufacturing licenses, and assumes it will receive 200 applications during FY25 to issue 8 new licenses in December 2025. Revenues from 200 application and 8 annual fees will be $1,506,760 in FY25 totaling $2,382,310.

Section 2.4(12) – Fees for marijuana microbusinesses will be $1,500 for applications and renewals. Application fees may be refunded for applicants that do not receive a microbusiness license. Their department assumes all application fees will be refunded if a microbusiness license is not issued. Annual fees will be $1,500 per year after the first year. Per Section 2.4(13), per the IP, their department will begin accepting applications by September 4, 2023, issue 32 microbusiness dispensary, and 64 microbusiness wholesale licenses in FY24. Per the IP, their department will issue another 16 microbusiness dispensary and 32 microbusiness wholesale licenses by April 4, 2025. Their department assumes all application fees will be refunded except those for the 48 awarded licenses. Revenues from these fees will be $0 in FY23, $145,296 in application fees and $0.00 in annual fees for FY24, and $146,604 in FY25 for annual fees from those licenses issued October 2023 (FY24).

The total for all new facility applications in FY25 is $7,957,321.

Issuing new comprehensive facility licenses and microbusiness licenses under Section 2.4(9)-(12) by lottery will cause new licensing costs. Third party application system costs are addressed above. For license application processing and all related licensing activities associated with the new licenses, beginning in December 2022, their department will require;

- Two Regulatory Auditor Supervisors with an annual salary of $63,500; and
- Six Senior Regulatory Auditors with annual salary of $46,350.

The increased compliance needs for the new microbusiness, new comprehensive licenses, and additional testing/transportation/seed-to-sale certifications means their department will require an additional:

- Five Compliance Inspectors with annual salary of $55,104;
- One Program Specialist with an annual salary of $40,000; and
- One Administrative Support Assistant with an annual salary of $39,000.

Vehicles and travel costs will be associated with the Compliance Inspector positions.

The increased investigation and enforcement needs, including participating in appeals of penalties and license denials/revocations, associated with the new microbusiness licenses, new comprehensive licenses, new certifications, consumer cultivators, and the increases in marijuana products and sales in Missouri means their department will require:

- One Regulatory Compliance Manager with an annual salary of $68,895;
- Seven Compliance Inspectors with an annual salary of $55,104; and
- One Business Project Manager with an annual salary of $50,000.

One investigative/forensic data analysis unit with an annual salaries of:

- One Program Coordinator at $68,495;
- Six Senior Research Analysts at $50,000; and
- One Administrative Support Assistant at $39,000 annually.

Vehicles and travel costs will be associated with the Compliance Inspector positions. Their department will also require an additional IT system solution for Investigation Workflow Management, at an annual cost of $422,160.

This proposed language will require a Case Management System Expansion $300,000; Investigative Management System $729,000; RFDS $24,000; IT Security Access Solution $500,000; and Gensys Phone System $13,459.

Section 2.4(13)-(14) – DHSS will appoint a Chief Equity Officer within 60 days of the effective date of the new law. For the duties described, they will require:

- One Business Project Manager for $50,000 annual salary;
- One Program Specialist at $35,000 to assist with eligibility reviews; and
- One Public Health Program Specialist at $45,000 to assist with public education programming.

Section 2.4(15)-(16) – These provisions allow any medical facility licensee to convert its license to a comprehensive license in order to serve both patients and consumers. As long as they are in good standing with DHSS, all requests are allowed to convert. Therefore, their department assumes all medical facility licenses will convert to comprehensive licenses within the first 3 months after the effective date of the new law. These must be processed within 60 days of receiving the request. With all facility licenses operating under Section 2, the following positions will be necessary under Section 2 as of January 2023:

Seven Senior Regulatory Auditors who review minimum licensing standards, process change request per rule and audit licensure activities:

- One Regulatory Auditor Supervisor for management oversight $69,865;
- Thirteen Compliance Inspectors $55,105; and
- One non-commissioned Investigator $45,900.

These will regulate medical marijuana licensed facilities to comply with Missouri law through inspection and other regulatory tools, and provide compliance assistance and 4 Compliance Inspection Supervisors for management oversight statewide or by region:

- One Regulatory Compliance Manager that oversees all licensed and certified medical marijuana facilities including the Licensing and Compliance units $86,700; and
- One Lead Administrative Support Assistant to support staff $42,840.

Some existing positions will be shared between Section 1 and Section 2. Their department assume a 50/50 split in responsibilities between the two Funds:

- One Section Director and one Section deputy director to provide leadership and program oversight;
- Three attorneys;
- One Litigation Coordinator;
- One Lead Administrative Support to support license appeals and provide legal documents needed for licensure actions;
- One Administrative Support Professional to support the Section Director, Deputy Director, and Operations Unit;
- One Program Coordinator to manage the Operations Unit and provide administrative logistical support across the program such as communications and program budget;
- One Staff Development Training Specialist to provide professional development and on-boarding of staff; and

- One Program Specialist to provide reporting and strategic development.

Section 2.4(22) –Their department anticipates certifications, including: Laboratory testing, Seed to Sale, and Transportation facilities will move from Section 1 to Section 2 including the fees associated with their certification. Fees to apply for certifications, such as testing, transportation, and seed-to-sale facilities, shall be $2,500. Their department assumes it will receive 20 applications to issue 2 additional testing facility licenses, 10 applications to issue 5 additional transportation, and 10 applications to issue 5 additional seed-to-sale certifications annually. Revenues from application and annual fees will be $210,000 in FY23, $237,115 in FY24, and $269,791 in FY25.

Section 2.4(23)-(24) – Their department will require staff to process applications for personal cultivation registration cards. The fee for these applications is $100, and these registration cards are valid for 1 year. Their department estimates 26,136 new consumers will apply to cultivate in FY23, 79,200 in FY24, and 118,800 in FY25. The annual revenues for these cards would be $2,613,600 in FY23, $7,991,280 in FY24, and $12,094,802 in FY25. As these are 1 year cards, they expect 12,428 renewal applications in FY24 and 37,660 renewal applications in FY25 with renewal revenues of $1,253,952 in FY24 and $3,834,052 in FY25. To process these applications, their department will require 10 Program Specialists with $40,000 annual salary each year.

Section 2.6 – The tax on non-medical marijuana sold to consumers is 6%, and revenues from this tax will be deposited in a "Veterans, Health, and Community Reinvestment Fund." Their department estimates non-medical sales tax revenue as follows: $8,977,382 for FY23, $46,313,352 for FY24, and $69,470,028 for FY25.

Their department will need to retain a reserve fund for a reasonable working cash balance. The reserve retained by their department is estimated to be approximately $4 million. Their department will assess the need at the end of each fiscal year once actuals are recorded. The IP states each year, after expenses and reserved needed is calculated, monies will first go to governmental entities with expungement responsibilities in an unknown amount. Then the remaining amount is divided in thirds, including one third to DHSS to award as grants to certain entities; one third to the Veterans Commission and allied state agencies; and one third to Missouri Public Defenders system.

Section 2.6(2)(c)(ii) – DHSS is to establish a grant program for organizations that offer drug addiction treatment programs. Their department will also require beginning in FY 2023: 1 Program Coordinator at $68,495.
Beginning in FY 2024:

- Three Grant Specialists at $50,000;
- Two Grant Officers at $45,000; and
- Two Grant Associates at $40,000.

2.9(3)–(5) – DHSS is required to enforce packaging and labeling requirements. With the increase in marijuana and marijuana products under Section 2, their department requires 4

Program Specialists with $45,000 annual salary to process requests for approval and pursue enforcement of the related requirements.

They also provided the following information.

ATTACHMENT A-Veterans Health and Care Fund

	Fee Schedule			Number of Projected Licenses			Projected Revenues							
Type	SFY 2023 New Application Fee	SFY 2024 New Application Fee	SFY 2025 New Application Fee	SFY 2023 Number of Licenses Application	SFY 2024 Number of Licenses Application	SFY 2025 Number of Licenses Application	SFY 2023 Application Fees	SFY 2024 Application Fees	SFY 2025 Application Fees	Total Projected Revenues	SFY 2023 Application Fees	SFY 2024 Application Fees	SFY 2025 Application Fees	
Patient	$ 25.00	$ 25.23	$ 25.45	24,663	49,327	49,327	616,575	1,244,520	1,255,372	3,116,467	3,160,481	3,160,481	3,160,481	patient card collection in FY21
Caregiver	$ 25.00	$ 25.23	$ 25.45	592	1,184	1,184	14,800	29,872	30,133	74,805	616,575	1,244,520	1,255,372	projected for future
Patient/caregiver Cultivator	$ 50.00	$ 50.45	$ 50.90	5,031	10,063	10,063	251,550	507,678	512,207	1,271,435	2,543,906	1,915,961	1,905,109	difference
Total				**30,286**	**60,574**	**60,574**	**882,925**	**1,782,071**	**1,797,712**	**4,462,708**				
											91,643	91,643	91,643	
PROJECTED Medical Marijuana Taxes							1,129,523	3,845,957	3,845,957	8,821,438	14,800	29,872	30,133	projected for future
											76,843	61,771	61,510	difference
							2,012,448	5,628,028	5,643,669	13,284,146				
						Loss of Revenue	(4,129,309.98)	(513,730.04)	(498,089.27)					

SFY 2021 Reveneu Collected														
											2,889,634	2,889,634	2,889,634	
Patient	3,160,481	51%									251,550	507,678	512,207	projected for future
Caregiver	91,643	1%									2,638,084	2,381,956	2,377,428	difference
Patient Cultivator	2,889,634	47%					2,638,084	2,381,956	2,377,428					
	6,141,758	44%	of total revenue received.											
Total Revenue received	**13,971,974**													
Agent	289,502													

ATTACHMENT B

Section 2: Adult Use	FY 2023 Fee Schedule			FY 2023 Number of Projected Licenses			FY 2023 Projected Revenues				
Type	New Application Fee	Renewal Fee	Annual Fee	Number of Applications (New)	Number of Licenses (Renewal)	Number of Licenses (Annual)	New Application Fees (E* A)	Facility License Renewal Fees (F * B Fee)	Facility License Annual Fees (G * C)	Change Requests	Total Projected Revenues
Comprehensive Cultivation Facility	12,000.00	12,000.00	25,000.00	-	-	60		-	1,500,000		1,500,000
Comprehensive Dispensary Facility	7,000.00	7,000.00	10,000.00	-	-	192		-	1,920,000		1,920,000
Comprehensive Manufacturing Facility	7,000.00	7,000.00	10,000.00	-	-	86		-	860,000		860,000
Laboratory Testing	2,500.00	2,500.00	2,500.00	2	-	10		-	25,000		25,000
Seed to Sale	2,500.00	2,500.00	2,500.00	5	-	29	12,500	-	72,500		85,000
Transportation	2,500.00	2,500.00	2,500.00	5	-	35	12,500	-	87,500		100,000
Microbusiness Dispensary	1,500.00	1,500.00	1,500.00	-			-				-
Microbusiness Wholesale	1,500.00	1,500.00	1,500.00	-	-	-	-	-	-		-
Personal Cultivation Registration Cards	100.00	100.00	-	26,136	-		2,613,600	-			2,613,600
Change Requests	2,074.64	-	-	300	N/A	N/A	N/A	N/A	N/A	622,392	622,392
Total				**26,448**	**-**	**412**	**2,638,600**	**-**	**4,465,000**	**622,392**	**7,725,992**
Taxes (Section 2: Adult Use)								-			8,977,382
TOTAL											**8,977,382**

Section 2: Adult Use	FY 2024 Fee Schedule			FY 2024 Number of Projected Licenses			FY 2024 Projected Revenues					
Type	New Application Fee	Renewal Fee	Annual Fee	Number of Applications (New)	Number of Licenses (Renewal)	Number of Licenses (Annual)	New Application Fees (E* A)	Facility License Renewal Fees (F * B Fee)	Facility License Annual Fees (G * C)	Change Requests	Total Projected Revenues	
Comprehensive Cultivation Facility	12,108.00	12,108.00	25,225.00	-		60	-	-	1,513,500		1,513,500	
Comprehensive Dispensary Facility	7,063.00	7,063.00	10,090.00	-		192	-	-	1,937,280		1,937,280	
Comprehensive Manufacturing Facility	7,063.00	7,063.00	10,090.00	-		86	-	-	867,740		867,740	
Laboratory Testing	2,522.50	2,522.50	2,522.50	2		12	5,045	-	30,270		35,315	
Seed to Sale	2,522.50	2,522.50	2,522.50	5	N/A	35	12,613	NA	88,288		100,900	
Transportation	2,522.50	2,522.50	2,522.50	5		35	12,613	-	88,288		100,900	
Microbusiness Dispensary	1,513.50	1,513.50	1,513.50	32		-	48,432	-	-		48,432	
Microbusiness Wholesale	1,513.50	1,513.50	1,513.50	64			96,864				96,864	145,296
Personal Cultivation Registration Cards	100.90	100.90	-	79,200	12,428		7,991,280	1,253,952			9,245,232	
Change Requests	2,093.31	-	-	300		N/A	N/A	N/A	N/A	627,994	627,994	
Total				**79,608**	**12,428**	**420**	**8,166,846**	**1,253,952**	**4,525,365**	**627,994**	**14,574,156**	
Taxes (Section 2: Adult Use)								-			46,313,352	
TOTAL											**46,313,352**	

Section 2: Adult Use	FY 2025 Fee Schedule			FY 2025 Number of Projected Licenses			FY 2025 Projected Revenues				
Type	New Application Fee	Renewal Fee	Annual Fee	Number of Applications (New)	Number of Licenses (Renewal)	Number of Licenses (Annual)	New Application Fees (E* A)	Facility License Renewal Fees (F * B Fee)	Facility License Annual Fees (G * C)	Change Requests	Total Projected Revenues
Cultivation Facility	12,216.97	12,216.97	25,452.03	400		70	4,886,789	-	1,781,642		6,668,431
Dispensary Facility	7,126.57	7,126.57	10,180.81	200		208	1,425,313	-	2,117,608		3,542,922

Manufacturing Facility	7,126.57	7,126.57	10,180.81	200		94	1,425,313	-	956,996		2,382,310
Laboratory Testing	2,545.20	2,545.20	2,545.20	2		14	5,090	-	35,633		40,723
Seed to Sale	2,545.20	2,545.20	2,545.20	5	N/A	40	12,726	N/A	101,808		114,534
Transportation	2,545.20	2,545.20	2,545.20	5		40	12,726		101,808		114,534
Microbusiness Dispensary	1,527.12	1,527.12	1,527.12	48		32	73,302		48,868		122,170
Microbusiness Wholesale	1,527.12	1,527.12	1,527.12	96		64	146,604		97,736		244,339
Personal Cultivation Registration Cards	101.81	101.81	-	118,800	37,660		12,094,802	3,834,052			15,928,855
Change Requests	2,112.15	-	-	300	N/A	N/A	N/A	N/A	N/A	633,645	633,645
Total				**120,056**	**37,660**	**562**	**20,082,666**	**3,834,052**	**5,242,099**	**633,645**	**29,792,463**

Taxes (Section 2: Adult Use)								-			69,470,028
TOTAL											**69,470,028**

FISCAL ESTIMATE WORKSHEET
OVERSIGHT DIVISION (573)751-4143
FAX (573)751-7681

FISCAL NOTE: 22-059IP
BILL NO:

SUMMARY OF FISCAL IMPACT
Type of Fiscal Note Response: Original

Agency:	DHSS	Date:	9-7-21
Division:	DHSS	Telephone:	573-751-6016
Preparer:	Judi Fifer	E-Mail Address:	Judi.Fifter@health.mo.gov
Preparer's Signature:	Judi Fifer	No Impact on Agency:	
Approval Signature:	Shelly Ash/Michael Oldv	No Local Fiscal Impact:	

Note: if both of the "no impact" lines are checked, you only need to complete the "Summary of Fiscal Impact" and "Overview-Questions" worksheets.

ESTIMATED NET EFFECT ON STATE FUNDS

Fund Affected	FY 2023	FY 2024	FY 2025
Vet's Comp Health & Reinvestment Fund	$8,957,005	$51,027,497	$89,178,716
Vet's Health & Care Fund 0606	($19,269,983)	($12,603,406)	($12,672,519)
Government Entities for Expungemen	Unknown	Unknown	Unknown
MO Veterans Commission new (1/3)	Unknown	Unknown	Unknown
DHSS Grants (1/3)	Unknown	Unknown	Unknown
MO Public Defenders (1/3)	Unknown	Unknown	Unknown
Total Estimated Net Effect on All State Funds	**($10,312,978)**	**$38,424,091**	**$76,506,197**

ESTIMATED NET EFFECT ON FEDERAL FUNDS

Federal Funds	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS

Local Funds	$0	$0	$0
Total Estimated Net Effect on All Local Funds	**$0**	**$0**	**$0**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: 22-059IP

BILL NO:

0606 VHC Fund

FUND COSTS BY CATEGORY

Expenditure by Category / Personnel by Position	FTEs	Annual Salary	FY 2023	FY 2024	FY 2025
Special Assistant Professional (Director)	(0.50)	99,807	(24,951.75)	(50,402.54)	(50,906.56)
Legal Councel (Deputy Director)	(0.50)	$93,293	(23,323.25)	(47,112.97)	(47,584.09)
Administrative Assistant Prof	(0.50)	$45,900	(11,475.00)	(23,179.50)	(23,411.30)
Legal Councel	(1.00)	$68,850	(34,425.00)	(69,538.50)	(70,233.89)
Legal Councel	(0.50)	$78,642	(19,660.50)	(39,714.21)	(40,111.35)
Lead Administrative Support Assistant	(0.50)	$34,517	(8,629.25)	(17,431.09)	(17,605.40)
Special Assistant Professional	(0.50)	$51,059	(12,764.75)	(25,784.80)	(26,042.64)
Program Coordinator	(0.50)	$63,036	(15,759.00)	(31,833.18)	(32,151.51)
Staff Dev Training Specialist	(0.50)	$44,447	(11,111.75)	(22,445.74)	(22,670.19)
Program Specialist	(0.50)	$51,457	(12,864.25)	(25,985.79)	(26,245.64)
Associate Research Data Analyst	2.00	$43,860	$43,860	$88,597	$89,483
Public Health Program Associate	(6.00)	$39,531	(118,593.00)	(239,557.86)	(241,953.44)
Senior Regulatory Auditor	(6.00)	$47,277	(141,831.00)	(286,498.62)	(289,363.61)
Senior Regulatory Auditor	(1.00)	$58,931	(29,465.50)	(59,520.31)	(60,115.51)
Regulatory Auditor Supervisor	(1.00)	$69,865	(34,932.50)	(70,563.65)	(71,269.29)
Compliance Inspector	(14.00)	$69,895	(489,265.00)	(988,315.30)	(998,198.45)
Compliance Inspector Supervisor	(1.00)	$69,865	(34,932.50)	(70,563.65)	(71,269.29)
Compliance Inspector Supervisor	(3.00)	$64,770	(97,155.00)	(196,253.10)	(198,215.63)
Regulatory Compliance Manager	(1.00)	$69,865	(34,932.50)	(70,563.65)	(71,269.29)
Lead Administrative Support Assistant	(1.00)	$39,000	(19,500.00)	(39,390.00)	(39,783.90)
			0.00	0.00	0.00
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**(37.50)**		**(18.75)**	**(37.50)**	**(37.50)**
Total Salaries			**($1,131,712)**	**($2,286,057)**	**($2,308,918)**
Fringe Benefits			**($568,515)**	**($1,219,294)**	**($1,227,010)**

FISCAL ESTIMATE WORKSHEET **22-059IP**

0

0606 VHC Fund

FUND COSTS BY CATEGORY

Expenditure by Category / Equipment by Item	BOBC	Units	Unit Cost	FY 2023	FY 2024	FY 2025
Desk Chair	580	2	$596	$1,192		
Side Chair	580	0	$314	$0		
Desk	580	0	$601	$0		
File Cabinet	580	2	$599	$1,198		
Calculator	190	2	$20	$40		
Cubicle	580	2	$6,800	$13,600		
Telephone	340	2	$145	$290		
TOTAL EQUIPMENT				$16,320	$0	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Travel	140	2	$10,103	$10,103	$20,711	$21,229
Travel	140	0	$5,103	$0	$0	$0
Fleet	560	2	$81	$81	$166	$170
Supplies	190	2	$238	$238	$488	$500
Telecommunications	340	2	$294	$294	$603	$618
Maintenance and Repair	430	2	$36	$36	$74	$76
Annual cost of facility agent app syste				($147,300)	($147,300)	($147,300)
	81.5	-37.5	$3,239	($60,731)	($124,499)	($127,612)
RENT:						
St. Louis/Metro ($21)	680		$4,830	$0	$0	$0
Large City ($18)	680	2	$4,140	$4,140	$8,487	$8,699
Out State ($14)	680		$3,220	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				($193,139)	($241,270)	($243,620)
TOTAL EQUIPMENT AND EXPENSE				($176,819)	($241,270)	($243,620)
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET **22-059IP**

0

0606 VHC Fund

SUMMARY OF FUND COSTS

I. Fund Costs by Category	**FY 2023**	**FY 2024**	**FY 2025**
Salaries	(1,131,712)	(2,286,057)	(2,308,918)
Fringe Benefits	(568,515)	(1,219,294)	(1,227,010)
Equipment and Expense	(176,819)	(241,270)	(243,620)
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**($1,877,046)**	**($3,746,621)**	**($3,779,548)**
II. Fund Revenue Sources			
Medical Marijuana reduction in sales tax	(9,253,837)	(6,537,403)	(6,537,403)
Reduction in Agent Fees	(289,502)	(289,502)	(289,502)
Facility fees/application and renewals	(6,344,857)	(5,163,434)	(5,281,115)
Patient/Caregiver/Cultivator fees	(5,258,833)	(4,359,688)	(4,344,047)
TOTAL FUND REVENUE - ALL SOURCES	**(21,147,029)**	**(16,350,027)**	**(16,452,067)**
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**($19,269,983)**	**($12,603,406)**	**($12,672,519)**

attachment A:

Patient	2,543,906	1,915,961	1,905,109	row 6
Caregiver	76,843	61,771	61,510	row 10
Culitvator	2,638,084	2,381,956	2,377,428	row 15
Total	5,258,833	4,359,688	4,344,047	

FISCAL ESTIMATE WORKSHEET **FISCAL NOTE: 22-059IP**

BILL NO:

VCHR Fund

FUND COSTS BY CATEGORY

Expenditure by Category / **Personnel by Position**	**FTEs**	**Annual Salary**	**FY 2023**	**FY 2024**	**FY 2025**
Special Assistant Professional (Director)	0.50	99,807	24,951.75	50,402.54	50,906.56
Legal Councel (Deputy Director)	0.50	$93,293	23,323.25	47,112.97	47,584.09
Administrative Assistant Prof	0.50	$45,900	11,475.00	23,179.50	23,411.30
Legal Councel	1.00	$68,850	34,425.00	69,538.50	70,233.89
Legal Councel	0.50	$78,642	19,660.50	39,714.21	40,111.35
Lead Administrative Support Assistant	0.50	$34,517	8,629.25	17,431.09	17,605.40
Special Assistant Professional/Legislation Co	0.50	$51,059	12,764.75	25,784.80	26,042.64
Program Coordinator	0.50	$63,036	15,759.00	31,833.18	32,151.51
Staff Dev Training Specialist	0.50	$44,447	11,111.75	22,445.74	22,670.19
Program Specialist	0.50	$51,457	12,864.25	25,985.79	26,245.64
Regulatory Compliance Manager	1	$86,700	$43,350	$87,567	$88,443
Lead Admin Support Assistant	1	$42,840	$21,420	$43,268	$43,701
Public Health Program Specialist	1	$45,000	$22,500	$45,450	$45,905
Compliance Inspector	12	$55,104	$330,624	$667,860	$674,539
Regulatory Auditor Supervisor	2	$63,500	$63,500	$128,270	$129,553
Lead Admin Support Assistant	2	$39,000	$39,000	$78,780	$79,568
Senior Research Analyst	6	$50,000	$150,000	$303,000	$306,030
Compliance Inspector	13	$55,104	$358,176	$723,516	$730,751
Associate Research Data Analyst	1	$43,000	$21,500	$43,430	$43,864
Business Project Manager	2	$50,000	$50,000	$101,000	$102,010
Regulatory Compliance Manager	1	$68,895	$34,448	$69,584	$70,280
Program Coordinator	2	$68,495	$68,495	$138,360	$139,743
Program Specialist	1	$35,000	$17,500	$35,350	$35,704
Program Specialist	1	$40,000	$20,000	$40,400	$40,804
Grant Specialist	3	$50,000	$75,000	$151,500	$153,015
Grant Officers	2	$45,000	$45,000	$90,900	$91,809
Grant Associates	2	$40,000	$40,000	$80,800	$81,608
Regulatory Auditor Supervisor	1	$69,865	$34,933	$70,564	$71,269
Senior Regulatory Auditor	6	$47,277	$141,831	$286,499	$289,364
Senior Regulatory Auditor	1	$58,931	$29,466	$59,520	$60,116
Senior Regulatory Auditor	6	$46,350	$139,050	$280,881	$283,690
Compliance Inspection SPV	1	$69,865	$34,933	$70,564	$71,269

Compliance Inspection SPV	3	$64,770	$97,155	$196,253	$198,216
Non-Commissioned Investigator	1	$45,900	$22,950	$46,359	$46,823
Program Specialist	4	$45,000	$90,000	$181,800	$183,618
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**81.50**		**81.50**	**81.50**	**81.50**
Total Salaries			**$2,165,794**	**$4,374,903**	**$4,418,652**
Fringe Benefits			**$1,541,880**	**$2,449,640**	**$2,464,405**

FISCAL ESTIMATE WORKSHEET **22-059IP (Section 1)**

0

VCHR Fund

FUND COSTS BY CATEGORY

Expenditure by Category / Equipment by Item	BOBC	Units	Unit Cost	FY 2023	FY 2024	FY 2025
Desk Chair	580	36	$596	$21,456		
Side Chair	580	4	$314	$1,256		
Desk	580	4	$601	$2,404		
File Cabinet	580	36	$599	$21,564		
Calculator	190	36	$20	$720		
Cubicle	580	32	$6,800	$217,600		
Telephone	340	36	$145	$5,220		
Laptops with docks	480	36	$952	$34,272		
tablets with docks	480	12	$1,542	$18,504		
Monitors	480	94	$221	$20,774		
TOTAL EQUIPMENT				$343,770	$0	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Travel	140	18.5	$10,103	$93,453	$191,578	$196,368
Travel	140	20	$5,103	$51,030	$104,612	$107,227
Fleet	560	18.5	$81	$749	$1,536	$1,574
Supplies	190	48	$238	$5,712	$11,710	$12,002
Telecommunications	340	36	$294	$5,292	$10,849	$11,120
Maintenance and Repair	430	48	$36	$864	$1,771	$1,815
Online Registry	480	1	$0	$527,700	$223,560	$223,560
Track and Trace System	480	1	$0	$815,000	$365,000	$365,000
Case Management System Expansion	480	1	$0	$300,000	$300,000	$300,000
Investigative Management System	480	1	$0	$422,160	$422,160	$422,160
Edible Registrty	480	1	$0	$729,000	$441,900	$441,900
RFIDS	480	12	$2,000	$24,000	$24,000	$24,000
IT Security Access Solution	480	1	$500,000	$500,000	$500,000	$500,000
Genesys Phone System	480	1	$13,459	$13,459	$13,459	$13,459
Network		81.5	$3,239	$131,989	$270,578	$277,342
RENT:						
St. Louis/Metro ($21)	680		$4,830	$0	$0	$0
Large City ($18)	680	36	$4,140	$74,520	$152,766	$156,585

Out State ($14)	680		$3,220	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$3,694,928	$3,035,479	$3,054,112
TOTAL EQUIPMENT AND EXPENSE				$4,038,698	$3,035,479	$3,054,112
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET **22-059IP (Section 1)**

0

VCHR Fund

SUMMARY OF FUND COSTS

I. Fund Costs by Category	**FY 2023**	**FY 2024**	**FY 2025**
Salaries	$2,165,794	$4,374,903	$4,418,652
Fringe Benefits	$1,541,880	$2,449,640	$2,464,405
Equipment and Expense	$4,038,698	$3,035,479	$3,054,112
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$7,746,372**	**$9,860,022**	**$9,937,169**
II. Fund Revenue Sources			
Taxes	$8,977,382	$46,313,352	$69,470,028
Microbusiness	$0	$145,296	$219,905
Lab Test/Seed to Sale/Transporation	$210,000	$237,115	$269,791
Personal Cultivation	$2,613,600	$9,245,242	$15,928,854
Facilitiy Fees	$4,280,000	$4,318,520	$12,593,662
Change request	$622,395	$627,994	$633,645
TOTAL FUND REVENUE - ALL SOURCES	**$16,703,377**	**$60,887,519**	**$99,115,885**
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$8,957,005**	**$51,027,497**	**$89,178,716**

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact. However, the impact on the demand for substance use disorder treatment is unknown. Their department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated the total estimated net effect on all state funds for fiscal year 2024 would be $227,986 to Unknown, fiscal year 2025 would be $676,775 to Unknown, and fiscal year 2028 would be $1,071,308 to Unknown.

This initiative petition establishes and modifies provisions relating to the legalization of marijuana.

The following estimation of operational impact only provides an estimate of the potential impact of the proposed language on future offender populations. It does not take into account the proposal to allow for the vacation of sentences for some drug offenses outlined in Subsection 10(7) of Section 2 because their department does not have the detailed information about the quantities of drugs involved in offenses that resulted in sentences that would be required to determine which offenders would be eligible for sentence vacation, immediate or otherwise.

The estimate of the number of offenders who will be impacted by the proposed legalization of marijuana can be calculated from the sentencing records maintained by their department, but with an important qualification. Most offenders sentenced for drug offenses in Missouri are sentenced for the production, sale, distribution or possession of a controlled substance, but the drug type is not always part of the sentence information that their department receives. In some cases, the drug type is known and is included in the offender management database, but the proportion of cases in which the drug related to the offense is known is a minority of the cases. Given that the drug associated with the offense is unknown by their department in the majority of cases, the estimation of the total impact that follows will use the proportions of cases in which the associated drug is known to determine the number of cases in which the associated drug is unknown that are likely related to marijuana. Therefore, they assume 3% of all prison admissions related to drug sentences are related to marijuana (see table 1).

Table 1. FY 2017 through FY 2020 admissions to prison on only drug-related sentences in which the drug associated with the offense is known. (Drug offenses and drug types are identified in the data system through the use of the NCIC categories, modifiers associated with a sentence, and the description of the offense.)

Marijuana	70	3.3%
Other Drug	2,072	96.7%
Total	2,142	100.0%

Of the 922 offenders with new commitments to prison in FY 2020 who were admitted only on drug sentences, 575 were cases in which an offender's youngest age associated with any of those drug offenses was 21 years of age or older. The average length of those sentences was 5.6 years. Based on their assumption that 3% of those sentences are related to marijuana, they estimate 17 admissions for sentences of people 21 years of age or older for offenses related only to marijuana.

In FY 2020, there were 1,263 offenders released from prison who had been incarcerated for new commitments to prison only on drug sentences. Their average length of time served to first release was 1.1 years, which is what they assume for all future new commitments in estimating their impact.

Based on their analysis of new probation cases related to drug sentences received by their department in FY 2020, approximately 7% of the cases in which the associated drug is known are related to marijuana (see table 2). Therefore, they assume 7% of all new probation cases are based on drug sentences related to marijuana.

Table 2. FY 2020 probation cases related only to drug sentences in which the drug associated with the offense is known. (Drug offenses and drug types are identified in the data system through the use of the NCIC categories, modifiers associated with a sentence, and the description of the offense.)

Marijuana	209	7.0%
Other Drug	2,766	93.0%
Total	2,975	100.0%

Of the 5,138 offenders with new probation cases in FY 2020 whose cases were only on drug sentences, 2,274 were cases in which an offender's youngest age associated with any of those drug offenses was 21 years of age or older. Based on their assumption that 7% of those sentences are related to marijuana, they estimate 159 new probations for sentences of people 21 years of age or older for offenses related only to marijuana. The average length of those sentences was 5.4 years. Given the possibility of earned compliance credit, they apply a 3-year sentence in their estimation of impact.

The estimated cumulative impact of this proposal on department operations is 44 fewer people in prison and 528 fewer people under supervision in the field by FY 2029.

Change in prison admissions and probation openings with legislation

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
New Admissions										
Current Law	17	17	17	17	17	17	17	17	17	17
After Legislation	0	0	0	0	0	0	0	0	0	0
Probation										
Current Law	159	159	159	159	159	159	159	159	159	159
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	-17	-17	-17	-17	-17	-17	-17	-17	-17	-17
Probations	-159	-159	-159	-159	-159	-159	-159	-159	-159	-159
Cumulative Populations										
Prison	-17	-34	-44	-44	-44	-44	-44	-44	-44	-44
Parole			-7	-24	-41	-51	-51	-51	-51	-51
Probation	-159	-318	-477	-477	-477	-477	-477	-477	-477	-477
Impact										
Prison Population	-17	-34	-44	-44	-44	-44	-44	-44	-44	-44
Field Population	-159	-318	-484	-501	-518	-528	-528	-528	-528	-528
Population Change	**-176**	**-352**	**-528**	**-545**	**-562**	**-572**	**-572**	**-572**	**-572**	**-572**

*If this impact statement has changed from statements submitted in previous years, it is because their department has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state

In December 2019, their department reevaluated the calculation used for computing the Probation and Parole (P&P) average daily cost of supervision and revised the cost calculation to be the DOC average district caseload across the state which is 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one FTE staff person. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, their department will use the average caseload figure for that specific type of offender to calculate cost increases/decreases. For instances where the proposed legislation affects a less specific caseload, their department projects the impact based on prior year(s) actual data for their department's 48 probation and parole districts.

Their department cost of incarceration in $21.251 per day or an annual cost of $7,756 per offender. Their department cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

They also provided the following information.

FISCAL ESTIMATE WORKSHEET **FISCAL NOTE:** **IP 22-059**
OVERSIGHT DIVISION (573)751-4143 **BILL NO:** **Article XIV Section 2**
FAX (573)751-7681

Instructions

SUMMARY OF FISCAL IMPACT

Type of Fiscal Note Response: Revised

Agency:	DOC - Corrections	Date:	9/7/2021
Division:		Telephone:	526-7844
Preparer:	Trevor Foley	E-Mail Address:	trevor.foley@doc.mo.gov
Preparer's Signature:		No Impact on Agency:	
Approval:	Matt Sturm	No Local Fiscal Impact:	
Approval Signature:		Oversight Analyst:	

Note: if both of the "no impact" lines are checked, you only need to complete the "Summary of Fiscal Impact" and "Overview-Questions" worksheets.
Create and complete separate worksheets for each state fund affected.

ESTIMATED NET EFFECT ON STATE FUNDS

Fund Affected	FY 2024	FY 2025	FY 2028
General Revenue	$277,986 - Unknown	$676,775 - Unknown	$1,071,308 - Unknown
Total Estimated Net Effect on All State Funds	$277,986 - Unknown	$676,775 - Unknown	$1,071,308 - Unknown

ESTIMATED NET EFFECT ON FEDERAL FUNDS

Federal Funds	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS

Total Estimated Net Effect on All Local Funds	**$0**	**$0**	**$0**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-059

BILL NO: Article XIV Section 2

Fiscal Note Worksheet

Instructions | Instructions | Instructions

	# to/from Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)		Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 1 (10 months)	-17	($7,756)	$109,877		(3)	$168,109	$277,986	(159)
Year 2 (includes 2% inflation)	-34	($7,756)	$268,978		(6)	$407,797	$676,775	(318)
Year 3 (includes 2% inflation)	-44	($7,756)	$355,051		(9)	$618,299	$973,350	(484)
Year 4 (includes 2% inflation)	-44	($7,756)	$362,152		(9)	$624,971	$987,123	(501)
Year 5 (includes 2% inflation)	-44	($7,756)	$369,395		(10)	$701,913	$1,071,308	(518)
Year 6 (includes 2% inflation)	-44	($7,756)	$376,783		(10)	$709,504	$1,086,287	(528)
Year 7 (includes 2% inflation)	-44	($7,756)	$384,319		(10)	$717,197	$1,101,516	(528)
Year 8 (includes 2% inflation)	-44	($7,756)	$392,005		(10)	$724,967	$1,116,972	(528)

	# to/from Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)		Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 9 (includes 2% inflation)	-44	($7,756)	$399,845		(10)	$732,844	$1,132,689	(528)
Year 10 (includes 2% inflation)	-44	($7,756)	$407,842		(10)	$740,798	$1,148,640	(528)

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-059
BILL: Article XIV Section 2
FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033
P&P Officer II	1	$38,753	$32,294	$39,140	$39,532	$39,927	$40,326	$40,729	$41,137	$41,548	$41,964	$42,383
Total FTE			(3)	(6)	(9)	(9)	(10)	(10)	(10)	(10)	(10)	(10)
Total Salary for 1 Employee			**$32,294**	**$39,140**	**$39,532**	**$39,927**	**$40,326**	**$40,729**	**$41,137**	**$41,548**	**$41,964**	**$42,383**
Total Salaries Per Year for All Employees			**($96,882)**	**($234,840)**	**($355,788)**	**($359,343)**	**($403,260)**	**($407,290)**	**($411,370)**	**($415,480)**	**($419,640)**	**($423,830)**
Fringe Benefits for 1 Employee			**$20,849**	**$25,269**	**$25,522**	**$25,777**	**$26,035**	**$26,295**	**$26,558**	**$26,824**	**$27,092**	**$27,363**
Fringe Benefits Per Year for All Employees			**($62,548)**	**($151,615)**	**($229,698)**	**($231,994)**	**($260,348)**	**($262,951)**	**($265,583)**	**($268,237)**	**($270,922)**	**($273,629)**
TOTAL SALARIES + FRINGE ALL EMPLOYEE			**($159,430)**	**($386,455)**	**($585,486)**	**($591,337)**	**($663,608)**	**($670,241)**	**($676,953)**	**($683,717)**	**($690,562)**	**($697,459)**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-059
BILL: Article XIV Section 2
FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	Units	Unit Cost	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033
Computer Equipment	1	$2,874	$2,874	$2,874	$2,960	$3,049	$3,140	$3,235	$3,332	$3,432	$3,535	$3,641
Office Equipment	1	$4,632	$4,632	$4,771	$4,914	$5,062	$5,213	$5,370	$5,531	$5,697	$5,868	$6,044
Other Equipment	1	$520	$520	$536	$552	$568	$585	$603	$621	$640	$659	$678
TOTAL EQUIPMENT FOR 1 EMPLOYEE			$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL EQUIP/YEAR FOR ALL EMPLOYEE			$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Expenses	**Units**	**Unit Cost**										
Travel, In-State	1	$425	$354	$436	$447	$458	$470	$481	$493	$506	$518	$531
Travel, Out-of-State	1	$25	$21	$26	$27	$27	$28	$29	$29	$30	$31	$32

Supplies	1	$815	$679	$835	$856	$877	$899	$922	$945	$968	$993	$1,017
Professional Development	1	$450	$375	$461	$473	$484	$496	$509	$522	$535	$548	$562
Communication Svcs & Supp	1	$650	$542	$666	$683	$700	$717	$735	$754	$772	$792	$811
Professional Services	1	$494	$412	$506	$519	$532	$545	$559	$572	$587	$601	$617
Housekeeping & Janitor Svcs	1	$232	$193	$237	$243	$249	$255	$262	$268	$275	$282	$289
M&R Services	1	$350	$292	$359	$368	$377	$387	$396	$406	$416	$427	$437
Equipment Rentals & Leases	1	$30	$25	$31	$32	$33	$33	$34	$35	$36	$37	$38
TOTAL EXPENSE FOR 1 EMPLOYEE			$2,893	$3,557	$3,646	$3,737	$3,830	$3,926	$4,024	$4,125	$4,228	$4,334
TOTAL EXPENSE FOR ALL EMPLOYEES			($8,679)	($21,342)	($32,813)	($33,634)	($38,305)	($39,263)	($40,244)	($41,250)	($42,282)	($43,339)
TOTAL EQUIP AND EXP FOR 1 EMPLOYEI			$2,893	$3,557	$3,646	$3,737	$3,830	$3,926	$4,024	$4,125	$4,228	$4,334
TOTAL E&E FOR ALL EMPLOYEES			**($8,679)**	**($21,342)**	**($32,813)**	**($33,634)**	**($38,305)**	**($39,263)**	**($40,244)**	**($41,250)**	**($42,282)**	**($43,339)**
Local Assistance			$0	$0	$0							
Other Costs ( )			$0	$0	$0							

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: **IP 22-059**
BILL: **Article XIV Section 2**
FUND: **General Revenue**

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**FY 2030**	**FY 2031**	**FY 2032**	**FY 2033**
Salaries	($96,882)	($234,840)	($355,788)	($359,343)	($403,260)	($407,290)	($411,370)	($415,480)	($419,640)	($423,830)
Fringe Benefits	($62,548)	($151,615)	($229,698)	($231,994)	($260,348)	($262,951)	($265,583)	($268,237)	($270,922)	($273,629)
Equipment and Expense	($8,679)	($21,342)	($32,813)	($33,634)	($38,305)	($39,263)	($40,244)	($41,250)	($42,282)	($43,339)
Local Assistance	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Other Fund Costs	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**($168,109)**	**($407,797)**	**($618,299)**	**($624,971)**	**($701,913)**	**($709,504)**	**($717,197)**	**($724,967)**	**($732,844)**	**($740,798)**
II. Fund Revenue Sources										
Taxes	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Fines	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Administrative Sanctions	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Other Sources ( )	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL FUND REVENUE - ALL SOURCES	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**
III. Cost Avoidance (Savings)										
Salaries	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Fringe Benefits	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Equipment and Expense	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Other Sources ( )	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$168,109**	**$407,797**	**$618,299**	**$624,971**	**$701,913**	**$709,504**	**$717,197**	**$724,967**	**$732,844**	**$740,798**

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article XIV.

Officials from the **Department of Revenue** indicated this is an initiative petition that would go to the vote of the people at the November 2022 general election. If this is not adopted by the people, this would not have a fiscal impact.

Should this be adopted at the November 2022 election, by the time certification of the election occurs, it is assumed this constitutional amendment would have a January 1, 2023 effective date. Per the requirements of this proposal, citizens would be able to file for a license to be certified to sell marijuana starting December 8, 2022. It is assumed that this proposal would start January 1, 2023 (FY 2023). For calculation of any costs in this proposal they used this start date.

Section 1- Medical Marijuana

XIV Section 1 – Removing the requirement that a person be a Missouri resident from the definition of "qualifying patient" may result in additional persons requesting a medical marijuana card. Currently in order to get a medical marijuana card you must be a resident of Missouri. Their department is unable to predict if there will be an increase in the number of medical marijuana cards.

Increasing the number of people who could purchase medical marijuana may increase the sales tax collected for medical marijuana. Currently medical marijuana is taxed at 8.225%.

The medical marijuana sales tax is distributed as:

Missouri Veterans' Health and Care Fund (4%)
General Revenue (3%)
School Districts Trust Fund (1%)
Conservation Commission (0.125%)
Parks, Soil & Water (0.1%)

If additional medical marijuana is sold, it could potentially increase the revenue to these funds. Their department is unable to predict this increase.

Currently qualifying patients shall obtain annual identification cards. This proposal would no longer require them to annually renew. This will result in a loss of revenue. Their department defers to the Department of Health and Senior Services to determine this lost revenue.

Section 4- Taxation and Reporting

Their department is able to retain up to 5% of the revenue collected from the medical marijuana tax to reimburse for their actual collection costs. This proposal would lower the amount to no more than 2%. However, their department currently retains 1% to cover their expenses. From November 2020 to July 2021 they retained a total of $26,325.

Section 4(8)- Medical Marijuana Deduction

This proposal would allow medical marijuana businesses a subtraction from the federal adjusted gross income the amount that would have been allowed from the computation of the taxpayer's federal taxable income if the income were not disallowed solely from them being a marijuana business. Under federal law marijuana is a controlled substance and businesses selling it are not allowed some deductions that other businesses are entitled to. Since marijuana is allowed to be sold in Missouri, this would allow them to adjust their federal adjusted gross income before calculating their Missouri adjusted gross income.

This would require their department to make an independent interpretation of federal law on what would or would not be an allowable federal deduction. Their department is unable to calculate the amount of income and deductions that these businesses could possibly be allowed to deduct under this proposal. They assume this could result in an unknown that could be significant negative fiscal impact to general revenue and total state revenue.

This bill would become effective January 1, 2023, and with no specific start date it would allow people to start filing for this immediately. Therefore, they will show the impact starting in fiscal year (FY) 2023.

This would require changes to the Forms MO-A and the MO-1120. The Form MO-A has a selection of check boxes for a set of "other" subtractions, so a new line would not necessarily be required. The Form MO-1120 does not currently have this checkbox option, so it would either require a new line or a reformatting of the subtractions in Part 2. This could result in some computer programming changes and form changes estimated at $2,000 in one-time costs.

Section 2 Marijuana Legalization, Regulation and Taxation

These provisions establish the guidelines for the legalization of marijuana (selling and using) by adults 21 years of age or older. The provisions include who can sell the product and how much a consumer can possess.

This proposal establishes a process by which marijuana facilities must be licensed and the fees they must pay. Their department will defer to the Department of Health and Senior Services to determine the amount of revenue that will be generated annually from the registration fees.

Additionally, this allows any citizen to apply for a marijuana card to grow their own marijuana. These grow your own cards have an annual fee. Their department will defer to the Department of Health and Senior Services to determine the amount of revenue that will be generated annually from these fees.

Section 6 - Taxation and Reporting

This proposal legalizes marijuana for recreational purposes. It imposes a tax on recreational marijuana upon the retail sale at a marijuana retail facility. The tax shall be at a rate of 6 percent starting January 1, 2023, the effective date of this proposal. Per this proposal, their

department is allowed to retain 2% of the tax collected or an amount to cover their administrative costs whichever is less.

It should be noted that this proposal requires the collection and payment of this recreational marijuana tax but does not specify when it is to be paid. Additionally, their department is not given rulemaking authority to set the collection dates for this tax that was given to the Division of Alcohol and Tobacco Control. For the calculation of the fiscal note, their department assumes this tax will be collected and remitted at the same time regular sales and use tax is collected. Should it be determined a different remittance time is allowed, the projected fiscal impact could be different than calculated.

All recreational marijuana tax revenues are to be deposited into the Veterans, Health and Community Reinvestment Fund. This proposal then outlines how that money is to be spent.

Based on a study completed by Gallup, 12 percent of the nation's adults smoke marijuana regularly. Based on information published on suburbanstats.org, there are approximately 4,181,284 individuals at age 21 or above in the State of Missouri, 12% of the total number of adults aged 21 or older would equal 501,754 adults.

A report published by Headset Inc, a new market insights from Seattle-based cannabis intelligence company, believes that the average marijuana consumer spends roughly $647 on marijuana and related products per year. Based on information provided in the report published by Headset Inc, the largest pool of individuals surveyed spent $1,000 or above each year on marijuana and marijuana products. These amount of $647 and $1000 will allow them to estimate a fiscal impact range.

This proposal allows for a 6% excise tax to be collected on the recreational marijuana as well as the current state sales tax rate of 4.225%. Bringing the total state tax to 10.225%.

Their department notes that sales tax is added to the purchase prices. Therefore at the low rate of $647 they assume total taxable sales of $324,634,838 ($647 * 501,754). Therefore at the low end they estimate the 10.225% collected state tax would be $33,193,912 ($324,634,838 * 10.225%).

Veterans Health	$19,478,090
General Revenue	$9,739,045
School District Trust Fund	$3,246,348
Conservation Commission	$405,794
Park, Soil & Water Fund	$324,635

At the upper rate of $1,000 they assume a total taxable sales of $501,754,000 ($1,000 * 501,754). Therefore at the upper end they estimate the 10.225% collected state tax would be $51,304,347 ($501,754,000 * 10.225%).

Veterans Health	$30,105,347
General Revenue	$15,052,620
School District Trust Fund	$5,017,540
Conservation Commission	$627,193
Park, Soil & Water Fund	$501,754

This proposal allows local political subdivisions to collect their current sales and use tax on marijuana. Their department assumes a current local sales and use tax rate of 4.03%. At this current rate it is estimated this would generate $13,867,751 to $21,433,927 for local governments.

This proposal allows local political subdivisions to impose up to an additional 3% sales tax on marijuana in their political subdivision. Their department is unable to determine how many political subdivisions would chose to institute this additional 3%. Their department assumes this would be an increase in revenue to any local political subdivision that chooses to do this.

This proposal does not limit the sale of recreational marijuana to just Missouri residents. Therefore, this proposal could be significantly underestimated. Additionally, this proposal allows Missouri residents to receive a license to grow their own product. If citizens chose to grow their own it could significantly reduce the amount of recreational marijuana tax and sales tax that is collected by the state.

This proposal allows their department to retain up to 2% of the tax collected to pay for the administration and collection of the tax. This would allow their department to retain $290,775 to $449,421 based on the estimated amount collected above. They are unsure if this would cover all of their department's increased expenses from implementing recreational marijuana. Should it not be enough, they will request additional funding through the appropriation process.

They know they will need a new reporting form that needs to be developed to track and monitor the recreational tax on the sale of marijuana. 2 Associate Customer Service Representatives (ASCR) at $24,360 for processing reporting forms, phone calls and correspondence received. 1 Management Analysis Specialist (MAS) at $38,476 to work with Division of Alcohol and Tobacco Control to administer this section as significant coordination may be required. Their department will need to make programming changes to the current sales and use tax databases. This is estimated at $10,000.

Section 2.6(8) - Recreational Marijuana Deduction

This proposal would allow recreational marijuana businesses a subtraction from the federal adjusted gross income the amount that would have been allowed from the computation of the taxpayer's federal taxable income if the income were not disallowed solely from them being a marijuana business. Under federal law marijuana is a controlled substance and business selling it are not allowed some deductions that other businesses are entitled to. Since marijuana is allowed to be sold in Missouri, this would allow them to adjust their federal adjusted gross income before calculating their Missouri adjusted gross income.

This would require their department to make an independent interpretation of federal law on what would or would not be an allowable federal deduction. Their department is unable to calculate the amount of income and deductions that these businesses could possibly be allowed to deduct under this proposal. Their department assumes this could result in an unknown that could be a significant negative fiscal impact to general revenue and total state revenue.

This bill would become effective January 1, 2023, and with no specific start date it would allow people to start filing for this immediately. Therefore, they will show the impact starting in FY 2023.

This would require changes to the Forms MO-A and the MO-1120. The Form MO-A has a selection of check boxes for a set of "other" subtractions, so a new line would not necessarily be required. The Form MO-1120 does not currently have this checkbox option, so it would either require a new line or a reformatting of the subtractions in Part 2. This could result in some computer programming changes and form changes estimated at $2,000 in one-time costs.

Section 10- Personal Use of Marijuana – (Expungement of Records)

As written, this law would allow eligible individuals with marijuana-related Driving While Intoxicated offenses to expunge those offenses.

For offenses where there is a current punishment in place, Section, 10(7)(a)(iii) & (b)(iii), it offers remedies where an individual can petition the court, and those sections prohibit expungement of CDL-related offenses. But then there is a catch-all section, Section 10(8)(a), that would compel the court to automatically expunge all the sets of convictions for which the punishment had been completed – and that does not create an exception for CDL-related offenses

Allowing marijuana-related driving offenses to be expunged as proposed in this section will, in some instances, compromise the state's enforcement of the provisions of §302.060, RSMo, regarding five-year and ten-year alcohol and drug license denials. In other instances, it will compromise the enhancement provisions of §302.525, RSMo, and the state's ignition interlock programs requiring offenders with multiple offenses to have an interlock device on any vehicle they operate for a minimum period of six months from the date of license reinstatement. The federal regulations and state statutes consider a repeat offender to be any person who has been convicted of more than one impaired driving

offence in five years. Missouri law denies a driver license for five years when this occurs. In addition, Missouri denies a driver license for 10 years to any person who has three or more impaired driving convictions in a lifetime. If a person is allowed to expunge these offenses these laws will not be enforceable. As such, the state may be ineligible to seek "Impaired Driving" federal grants.

The language in this IP may be inconsistent with the provisions of §§577.054 and 610.130, RSMo, which do not allow a driving while intoxicated (DWI) offense to be expunged until after 10 years from date of conviction, and only if the person has no other DWI offenses on record or pending. It is unclear if the expungement under this new section would be considered an independent remedy.

As written, this IP could potentially allow eligible individuals with marijuana-related Driving While Intoxicated offenses who hold a commercial driver license (CDL) to expunge those offenses, which would violate federal Commercial Driver License provisions prohibiting masking of violations and record keeping requirements for convictions and license actions committed in any type of vehicle under 49 CFR Section 384, specifically, the provisions of §384.225(d), as adopted in Missouri under §302.347, RSMo, for offenses committed by those required to possess a CDL. This proposal could also potentially result in their department violating §302.347, RSMo, which contains Missouri adopting federal record keeping requirements under 49 CFR Section 384 to report to the CDLIS (Commercial Driver's License Information System) all convictions and license actions committed in any type of vehicle for CDL holders or those required to possess a CDL.

Failure to comply with federal regulations under 49 CFR Section 384 may result in the loss of Federal-aid highway funds apportioned to the State, as defined in 49 CFR 383.401, with the first year of non-compliance resulting in a 4% reduction ($26 million), and each subsequent year subject to a 8% reduction ($52 million). This proposal could result in the decertification under 49 CFR 384.405, resulting in Missouri not being able to issue CDL credentials.

Should their department be found to be non-compliant and be required to stop the issuance of CDL credentials, they should have a potential loss of revenue. For informational purposes their department is noting the number of transactions that occurred in FY 2020 (the last complete year of data) for CDL licenses, permits, test fees and update fees as well as TPT annual fees that would reduce total revenue if they remained non-compliant with no action to resolve and were required to shut down their program.

Here is the chart of costs.

Commercial Permit (new)		13,406	$118,770.00
Commercial Permit (renewal)		354	$1,770.00
Totals CDL New		16,416	$621,690.00
Totals CDL Renewal		34,517	$1,257,651.00
Duplicate CDL Instruction Permit		160	$800.00
REAL ID Duplicate CDL *		8,574	$0.00
CDL Skills Test		8,255	$206,375.00
CDL Written Test		20,423	$510,575.00
Third Party Tester App.		11	$1,100.00
Medical Certificate Update		72,472	$0.00
		174,588	**$2,718,731.00**

Driver license issuance and renewal fees go MoDOT for transportation.

Should their department not be allowed to continue the CDL program then the Missouri State Highway Patrol and several third party contractors may impact their FTE requirements or allocation. Currently, CDL applicants must undergo testing done by the Highway Patrol or a third party contractor and that would no longer be necessary. Their department will defer to the Highway Patrol about any potential FTE impact.

Their department notes that they are unsure when or if the federal government would rule they are out of compliance and if found out of compliance not allow them to participate in the CDL licensing program. If found out of compliance and lose the ability to participate in the CDL program they have estimated the potential losses above. At this time they are unable to estimate in which fiscal year these losses could possibly occur.

DLB Administrative Impact

Section 10 of this proposal would require their department to honor a court-ordered expungement of any marijuana-related driving offenses currently reflected on the driving record of qualifying individuals. This would include convictions for driving under the influence of drugs (DUID), driving while intoxicated (DWI), Minor in Possession and abuse and loss suspensions and revocations and chemical related revocations. Excludes offenses committed by a CDL holder that is in violation of 49 CRR 390.5 or its successor provisions, from the expungement provisions.

Per this proposal all government entities are required to administratively expunge the marijuana records. Those expungements are to be done within 90 days. Currently, one FTE can process approximately 50 court-ordered expungements per day. The proposed legislation will increase the number of expungements received by their department. Their department has no current data or systematic way to determine how many of the over one million related actions are marijuana related and may require evaluation for expungement. Due to the age of the existing motor vehicle system they are unable to run a query for marijuana offenses. They will need to go through all the records to determine which offenses are for marijuana to expunge them.

In order to meet the timeline of this proposal, their department assumes they will need at a minimum 10 temporary staff members ($8,164 per person). Based on the volume of marijuana violations additional staff may be necessary to meet the timeline.

Additionally, to implement the proposed legislation, their department will be required to:

- Update procedures; and
- Train staff.

FY 2020 – Driver License Bureau

Research Data Analyst	10 hrs. @ $23.82 per hr.	= $238
Manager	10 hrs. @ $22.24 per hr.	= $222
Total		= $460

Their department assumes the cost to update procedures and internal training will be absorbed.

Comments:

To ensure full CDL program compliance the sponsor should modify the language to ensure the proposed expungement provisions do not apply to offenses in an CMV or by a commercial driver license or commercial learner's permit holder as defined in 49 CFR §383.51. Failure to meet these provisions and mandatory reporting requirements may result in a loss of funding of up to 4 percent of Federal-aid highway funding in the first year of noncompliance and up to 8 percent in second and subsequent years of noncompliance.

This language could also result in Missouri losing accreditation and the ability to issue CDL's. This noncompliant finding, if not remedied, could result in the loss of an estimated $1.2 million in CDL issuance and renewal fees. These fees go toward highway funding.

Officials from the **Department of Public Safety - Office of Director** indicated no impact for the Director's office or the Department of Public Safety, Division of Alcohol and Tobacco Control. The Missouri Veterans Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office. The following response is from the Missouri State Highway Patrol.

Missouri State Highway Patrol - Impact and Concerns 22-059

There are approximately 32,327 records in the Traffic Arrest System (TAS) pertaining to arrests completed by the Missouri State Highway Patrol that could possibly meet the requirements of this proposed constitutional amendment. These are arrest records with or without a court conviction with an NCIC modifier of 60-64 that relate to marijuana offenses. However, due to the uncertain nature of this proposal to amend Missouri's Constitution, the Patrol Records Division (PRD) has no true way to determine the actual impact associated with such a proposal. If PRD is required to simply complete a mass expungement of all 32,327 records without processing individual court orders, then this could probably be completed by the Criminal Justice Information Services Division (CJIS) programming the TAS. However, if PRD is required to process 32,327 court orders for this endeavor, then the division will require 9 FTE to process the court orders.

1 full-time employee (FTE) = 1,864 hours (average work hours per year) x 60 minutes per hour = 111,840 minutes per year.

30 minutes = estimate of the amount of time per petition to log, process, research, review, and expunge the information/record when the order is received.

1 FTE can process 3,728 expungements per year = 111,840 / 30.

32,327 / 3,728 = 9 FTEs

The approximate cost for 9 FTEs would be $477,000 including fringe benefits.

The fiscal impact would also include the cost associated with replacing all but 2 of the Patrol's canines. The Patrol's canines are currently trained using cannabis/marijuana as one of four drugs they are to alert to. The purchase and initial training for a canine is approximately $25,000. The overall cost to purchase and train the current canine program would be approximately $175,000 ($25,000 X 7). The time to train these canines could take up to three years. Not only will there be a financial impact to the Patrol, there will also be an impact to the services provided to other law enforcement agencies until the unit reaches full capacity.

In addition to the fiscal impact, the following are the Patrol's concerns based on what other states have reported:

In 2009, Colorado traffic fatalities involving drivers testing positive for marijuana represented 9% of the total traffic fatalities. Recreational marijuana use was legalized in 2012. By 2019, that number more than doubled to 21%.

Since recreational marijuana was legalized in 2013, Colorado traffic deaths in which drivers tested positive for marijuana increased 135% while all Colorado traffic deaths increased 24%.

Marijuana-related deaths when a driver tested positive for marijuana more than doubled from 55 deaths in 2013 to 129 deaths in 2019.

The yearly number of marijuana related hospitalizations increased 101% after the legalization of marijuana, (2009-2017).

Colorado's youth for 2020 marijuana use was 43% higher than the national average.

The average THC levels in marijuana has increased significantly over the years: 1969-0.8%, 1995-4%, 2013-13%, 2017-20+%, Oil, 1995-13%, 2013-52%, highest plant 38%, highest oil 95%+.

Medical marijuana has been legal in the state of Colorado since 2000. On November 12, 2012, the state of Colorado passed Amendment 64, which legalized private use of marijuana. Per the Colorado State Patrol's driving under the influence statistics, marijuana DUI citations increased 25.5% from 2014 to 2018 and marijuana and alcohol citations increased 112% in the same time range. As marijuana becomes legalized, its use increases.

The three years after Colorado legalized marijuana for recreational use (2013-2015), its use increased in youth ages 12-17, by 12%, in young adults aged 18-25 by 16%, and adults 26 and older by 71%. By removing the recommended acceptable ages of use, zoning regulations, packaging, and advertising of cannabis/marijuana, the risk of use and abuse of marijuana by the youth of Missouri is substantially increased. This category of Missourians, who recent studies have shown significant long-term cognitive impairment when marijuana is ingested during the developmental years, would be affected.

In Missouri, medical marijuana was legalized by Amendment 2 and took effect December 2018. As of July 9, 2020, 18 states and Washington D.C. have legalized recreational marijuana and 37 states have legalized medical marijuana. In a 2013-2014 National Highway Traffic Safety Administration (NHTSA) roadside survey, 20% of the nighttime and weekend drivers tested positive for drugs. Interestingly, the number of daytime drugged drivers was approximately the same amount as night and weekend drugged drivers. A roadside study in Colorado and Washington, the first two states to legalize marijuana for recreational use, showed the primary increase of marijuana users happened to their daytime drivers. The percent of drivers that tested positive for marijuana during the day went from 8%, before recreational marijuana sales, to 23%, 6-12 months after marijuana was legalized. There was a 48% increase in weekend nighttime drivers testing positive for THC or 11-OH-THC (an active metabolite of THC) from 2007 to 2014.

Montana legalized medical marijuana in 2004 and from 2007-2010, the presence of marijuana in DUI suspects increased over 100%. Also, the number of DUI suspects who tested positive for alcohol and marijuana increased by over 180%.

This has Department of Health and Senior Services (DHSS) being the agency that enforces it. The concern is that DHSS has no police powers which would inhibit enforcement efforts.

This initiative petition will remove cannabis/marijuana from Missouri Revised Statutes and creating conflict with both several Federal and State laws, such as the use or possession of a firearm, and could conflict and violate federal law. This initiative petition does not support the Gun Control Act (GCA), codified at 18 U.S.C. § 922.

As Section 2 includes the central repository, there is a CJIS technical impact to remove any offenses identified in the proposal including FBI records. This significance of the CJIS technical impact is unclear as the court petition process is not clearly defined and the proposal does not identify if expungement means to destroy or close the record.

The authority to submit fingerprints to the FBI for a federal fingerprint based criminal record check is not authorized though the Initiative Petition process. Federal fingerprint based criminal record checks authorized under P.L. 92-544 can only be approved under a state statute that has gone through the full legislative process. All legislative proposals and statute changes that involve access to FBI criminal history must be vetted through the FBI Criminal Justice Information Law Unit (CJILU) for approval prior to utilization. Section 195.815 RSMo covers the federal fingerprint based criminal record checks that the Initiative Petition is referencing, however, the Department of Health and Senior Services is proposing changes to 195.815 RSMo to obtain FBI approval, which may enable the use as a P.L. 92-544 statute.

As the Patrol has officers assigned to federal task forces that may be involved in a federal drug operation, there are concerns over potential civil litigation resulting from these types of operations, as marijuana is still classified as a Schedule I controlled substance, and illegal under federal law.

The Patrol operates in accordance with the Drug-Free Workplace Act of 1988, which requires a drug testing program. This program tests potential employees as well as random testing for incumbent employees in enforcement, and drug sensitive areas.

Noted in Section 1.7 (1) (d), this provides good protection for employers. The Patrol believes this needs to be added to Section 2 of the initiative petition as well.

Another concern is the inability to properly train officers as laws have not yet been established. Further training is currently needed on medical marijuana laws, and more training will need to be established if this passes. Once recreational use passes, other intoxicating/impairing substances may be targeted for legalization/decriminalization as they have in many other states. One example is Oregon which has decriminalized psilocybin, cocaine, heroin, oxycodone, methamphetamine, and other drugs.

If passed, this petition will conflict with federal cannabis/marijuana laws and could cause significant conflict with several Federal and State laws, such as the use or possession of a firearm. Cannabis/marijuana causes impairment and is not a suitable drug to be used in various safety sensitive positions in the workforce, therefore strong language protecting employers is suggested. The workforce which could be affected would include any position

where safety is a must, such as operating a motor vehicle, operating heavy machinery, and all aspects of public safety.

There is no language as to where the cannabis/marijuana may remain, such as any cannabis/marijuana purchased or grown in Missouri must remain in Missouri. While this is a federal offense, a lack of this type of language may allow Missouri cannabis/marijuana facilities to distribute cannabis/marijuana outside of the state or allow other states to distribute their cannabis/marijuana in Missouri. A lack of such language could lead to Missouri being a distribution state for states where cannabis/marijuana remains illegal.

The Patrol believes this initiative petition could be a detriment to the medical marijuana program Missouri has established. Across the board this initiative petition pushes legalizing or decriminalizing marijuana for everyone. Possession and cultivation amounts are raised, taxes and fines are decreased, and public safety aspects are removed or so specific that violators will likely never be convicted or prosecuted. This initiative petition will allow marijuana to be advertised similarly to alcohol, which is concerning due to the abuse of alcohol by minors.

For further consideration, as the legalization or decriminalization of cannabis/marijuana has increased in the past several years, so have the crashes and deaths on highways. Blood screenings on drivers in serious injury and fatal crashes have shown a staggering increase in drivers who have cannabis/marijuana within their system at the time of the crash.

Overall cost to the Patrol:
9 full-time employees = $477,000
7 new canines for the canine program = $175,000
Total cost = $652,000

Officials from the **Department of Social Services** indicated this will have no fiscal impact for their department.

Officials from the **Governor's office** indicated this proposal addresses the regulation and taxation of cannabis for recreational and medical use. This proposal should not fiscally impact their office.

Officials from the **House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative should not have a fiscal impact to their department/ Missouri Highways and Transportation Commission. Commercial Motor Vehicle drivers would remain prohibited from using and possessing marijuana due to the more stringent USDOT regulations.

Officials from the **Office of Administration** indicated this proposal would legalize recreational marijuana for any Missouri resident over the age of 21, beginning December 8, 2022. Article XIV, Section 1, which authorized creation of the medical marijuana program is also amended.

Subdivision 1.3(12) would increase the number of marijuana plants that a qualifying patient may cultivate within their home to six flowering marijuana plants, six nonflowering marijuana plants over fourteen inches tall, and six clones under fourteen inches tall. This subdivision also increases the duration of a patient cultivation card to three years and reduces the card fee to $50. Each of these changes would result in a reduction to TSR. Budget & Planning (B&P) defers to the Department of Health and Senior Services (DHSS) for further discussion on the impact.

Subdivision 1.3(13) would increase the maximum amount of dried, unprocessed marijuana that can be purchased within a 30 day period to six ounces which may result in an increase to TSR. B&P defers to DHSS for further discussion on the impact.

Subdivision 1.3(14) would create a new penalty for medical marijuana possession over the legal limit. Patients with certification from two independent physicians or nurse practitioners with a compelling reason for possessing additional amounts will not be subject to these requirements. Possession of between 12 ounces and 24 ounces of dried, unprocessed flower shall be subject to department sanctions including an administrative penalty of up to $200 and loss of their patient identification card for up to one year. This codifies this penalty into the Constitution and will have no impact on TSR as this matches current state regulations pursuant to 19 CSR 30-95. For possession in excess of 24 ounces, the possessor shall be subject to an infraction under applicable law. It is unknown how this change may impact the number of violations or penalties resulting in an unknown impact to TSR.

Subdivision 1.3(19-20) would increase the duration of patient and caregiver identification cards to three years which would result in a reduction to TSR. This section also requires a new patient certification every three years for each card renewal. B&P defers to DHSS for further discussion on the impact.

Subdivision 1.4(1) would reduce the percentage of medical marijuana sales tax collections that the Department of Revenue (DOR) may retain for the cost of collections. B&P defers to DOR for an estimated impact from this provision.

Subdivision 1.4(8) would allow marijuana related businesses operating under Article XIV to deduct business expenses from their Missouri adjusted gross income. B&P notes that this provision would begin January 1, 2023 if voter approved. Therefore, B&P assumes that this deduction would become available for taxpayers for tax year 2022. B&P notes that tax year 2022 returns would not be filed until April 2023. Therefore, B&P estimates that this proposal could reduce GR beginning in FY23.

B&P notes that typically businesses are allowed to deduct certain expenses from their federal adjusted gross income (FAGI). Those deductions would then flow through to the business's Missouri adjusted gross income (MAGI) allowing for an implicit deduction from Missouri's income tax. However, because marijuana is a controlled substance at the federal level, marijuana related businesses are not allowed to deduct their business expenses on their federal taxes. This would allow such businesses to receive the business expense deduction at the state level.

B&P was unable to obtain enough revenue, cost, or profit margin data for medical marijuana related businesses to estimate the GR impact from this proposal. Therefore, B&P estimates that this proposal will reduce TSR and GR by an unknown, but significant, amount beginning with FY23.

Subdivision 1.5(7) would increase the number of marijuana plants that a primary caregiver may cultivate within their home to six flowering marijuana plants, six nonflowering marijuana plants over fourteen inches tall, and six clones under fourteen inches tall. This subdivision also limits the number of flowering plants per caregiver to 24 regardless of the number of patients they are caring for.

Subdivision 1.7(3) would increase the penalty for any business or individual selling a product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. **Subdivision 1.7(4)** increases the penalty for any business that violates marijuana-infused products packaging requirements as mandated by DHSS. For each of these two provisions, the amended penalty now may include up to a $5,000 administrative penalty which codifies this penalty into the Constitution and will have no impact on TSR as these match current state regulations pursuant to 19 CSR 30-95.

Subdivision 1.7(5) would increase the number of patients a primary caregiver may serve to six patients. It also limits the number of flowering plants per caregiver to 24 regardless of the number of patients they are caring for. It is unknown how these changes may impact the number of primary caregiver identification or cultivation cards resulting in an unknown impact to TSR.

Subdivision 1.7(6) would prohibit any person from smoking marijuana in any public place unless it is specifically licensed for that purpose by an entity with appropriate jurisdiction. Violations of this provision are subject to a civil penalty of up to $100. This may increase TSR by an unknown amount.

Subdivision 1.7(7) would prohibit any person or business from extracting resins from marijuana using dangerous materials or gases without a medical marijuana manufacturing license. Violations of this provision are subject to an administrative penalty of up to $1,000 for a patient or caregiver and $10,000 for a facility licensee. This codifies this penalty within the Constitution and will have no impact on TSR as this matches current state regulations pursuant to 19 CSR 30-95.

Subsection 2.1 would legalize recreational marijuana for individuals age 21 and older effective December 8, 2022.

Subdivision 2.4(1)(i) would require DHSS to establish a lottery selection process to select comprehensive facility licenses, certificate holders, and marijuana microbusiness licensees. Medical marijuana facilities that will convert to a comprehensive facility will not be subject to the lottery process.

Subdivision 2.4(2) would require DHSS to issue no less than the amount of medical marijuana facility licenses currently issued as of December 7, 2022. This subdivision grants DHSS the authority to issue more licenses than the minimum requirements to meet market demand.

Subdivision 2.4(4) would authorize DHSS to promulgate rules and regulations necessary for the implementation and enforcement of this section, including the creation of administrative penalties. Dependent upon the penalty amounts and likelihood of violations that DHSS implements, these penalties may increase TSR by an unknown amount.

Subdivision 2.4(8) would require DHSS to make license application forms available for marijuana microbusinesses by June 6, 2023 and begin accepting those applications by September 4, 2023.

Subdivision 2.4(9) would require comprehensive marijuana cultivation facilities to pay a non-refundable $12,000 per license application or renewal between December 8, 2022 and December 7, 2025. Beginning December 8, 2025, comprehensive marijuana cultivation facilities shall be charged a non-refundable application and renewal fee of $5,000. Renewal fees would be incurred every three years. In addition, comprehensive marijuana cultivation facilities shall be charged an annual fee of $25,000, adjusted for inflation.

Subdivision 2.4(10) would require comprehensive marijuana dispensary facilities to pay a non-refundable fee of $7,000 per application or renewal between December 8, 2022 and December 7, 2025. Beginning December 8, 2025, comprehensive marijuana dispensary shall be charged a non-refundable application and renewal fee of $3,000. Renewal fees would be incurred every three years. In addition, comprehensive marijuana dispensary facilities shall be charged an annual fee of $10,000, adjusted for inflation.

Subdivision 2.4(11) would require comprehensive marijuana-infused products manufacturing facilities to pay a non-refundable fee of $7,000 per application or renewal between December 8, 2022 and December 7, 2025. Beginning December 8, 2025, comprehensive marijuana-infused products manufacturing dispensary shall be charged a non-refundable application and renewal fee of $3,000. Renewal fees would be incurred every three years. In addition, comprehensive marijuana-infused products manufacturing facilities shall be charged an annual fee of $10,000, adjusted for inflation.

Subdivision 2.4(12) would require marijuana microbusiness facilities to pay a refundable fee of $1,500 per application and renewal. The application and renewal fee shall be adjusted

for inflation annually. Renewal fees would be incurred every three years. In addition, microbusinesses shall be charged an annual fee of $1,500, beginning the year after the microbusiness' application is accepted. Microbusinesses will only be allowed to operate as a microbusiness dispensary facility or as a microbusiness wholesale facility and conduct business transactions with other licensed microbusinesses and directly with qualifying patients, caregivers, and consumers. Microbusiness majority owners must meet at least one of several different qualifications including having a net worth below $250,000, being disabled due to military service, reside in an economically disadvantaged area, or have been negatively impacted by past marijuana possession laws.

Subdivision 2.4(13) would require DHSS to issue microbusiness licenses in each Missouri congressional district as specified below. Future changes to the congressional boundaries or number of districts will not impact these license numbers.

- Six licenses (two dispensaries, four wholesale) – licenses to be issued no later than October 4, 2023;
- An additional six licenses (two dispensaries, four wholesale) – licenses to be issued no later than June 30, 2024; and
- An additional six licenses (two dispensaries, four wholesale) – licenses to be issued no later than April 1, 2025.

Subdivision 2.4(22) would permit DHSS to charge up to $2,500 for certifications of testing facilities. Dependent upon the number of testing facilities DHSS would certify, this would result in an unknown increase to TSR. B&P defers to DHSS for further explanation on this impact.

Subdivision 2.4(23-24) would require DHSS to make personal cultivation application forms available to the public by January 7, 2023 and begin accepting these applications by February 6, 2023. Personal cultivators are allowed to cultivate up to six flowering marijuana plants, six nonflowering marijuana plants over fourteen inches tall, and six clones under fourteen inches tall. However, no more than twelve plants may be kept at a single private residence. Personal cultivation cards would be valid for 12 months at a charge of $100 annually, adjusted for inflation. To the extent that individuals purchase personal cultivation cards, this would increase TSR by an unknown amount. B&P defers to DHSS for further explanation on this impact.

Subdivision 2.5(1) allows local governments to prohibit non-medical marijuana facilities to be located within the local subdivisions boundaries.

Subdivisions 2.6(1) through 2.6(3) would levy a 6% tax on the retail sale of recreational marijuana. Subdivision (1) would further grant DOR the ability to retain up to 2% of collections to reimburse the department for collection costs. All remaining monies collected shall be deposited into the newly created "Veterans, Health, and Community Reinvestment Fund." Monies in the fund shall be used in the following ways:

- DHSS costs for enforcing Section 2;

- Government entities for the costs of expungement; and
- The remaining balance shall be distributed equally among:
    - One-Third – Missouri Veterans Commission and allied agencies for the health care and other services for military veterans and their families;
    - One-Third – DHSS to provide grants to not-for-profit organizations to increase access to drug addiction treatment; and
    - One-Third – Missouri public defender system for legal assistance for low-income Missouri citizens.

Subdivision 2.6(4) states that the tax levied under Section 2 shall be in addition to all other state and local taxes. B&P notes that the state levies a sales tax rate of 4.225% and the population weighted local sales tax rate as of July 2021 is 4.03%. **Subdivision 2.6(5)** would allow local governments to levy up to an additional 3.0% tax on the sale of recreational marijuana within that subdivision's boundaries. B&P is unable to determine which local jurisdictions would levy an additional tax and the tax rate that may be levied for each subdivision. Therefore, for the purpose of this fiscal note, B&P will only show the population weighted local sales tax rate of 4.03%. **Subdivision 2.6(6)** prohibits any other state and local taxes from being levied on recreational marijuana.

B&P notes that under this proposal the total state sales tax on medical marijuana will remain 8.225%, while the total state sales tax on recreational marijuana will be 10.225%. Therefore, B&P assumes that medical sales will not be reduced as a result of legalizing recreational marijuana. However, Subdivision 2.2(4) states that comprehensive marijuana dispensaries do not need to keep medical and recreational marijuana sales separated. B&P notes that this provision may create difficulties when determining whether a comprehensive dispensary is retaining and remitting the correct amount of sales tax. It is possible that under this provision, a comprehensive dispensary could claim that all sales were medical and only remit the 8.225% medical marijuana sales tax. Thereby either keeping 2% (10.225% - 8.225%) as profit or by charging all customers the lower medical sales tax rate.

Subsection 2.7 requires all law enforcement agencies to provide an annual report to the Attorney General detailing the results of searches for alleged marijuana offenses. The Attorney General shall compile all reports together and forward a summary to the Governor, General Assembly, and each law enforcement agency.

Subsection 2.9(2) would require that all comprehensive marijuana facility owners undergo a fingerprint-based criminal background check. The Missouri State Highway Patrol (MSHP) Criminal Justice Information Services (CJIS) Division processes all state and federal fingerprint background checks. The CJIS has the following fee structure for background checks:

State fee:	$20.00
Vendor Fee:	$8.50
FBI fee:	$13.25
Total fees:	$41.75

The state retains the $20 state fee and $2 of the FBI fee ($22 total retained by the state). All fees collected will be deposited in the MSHP Criminal Records System Fund. MSHP verified that over 90% of background checks are conducted using third party vendor, IDEMIA, who charges the applicant an $8.50 fee which is kept by IDEMIA. The applicant pays the full fee of $41.75 to the vendor and MSHP then collects the full state and FBI fees ($33.25) from the vendor each month. The FBI bills MSHP monthly, and MSHP pays the FBI their portion of the FBI fee out of the MSHP Criminal Records System Fund. B&P defers to MSHP for further discussion on this impact.

Subdivision 2.9(3) would create a penalty for any business or individual selling a product in a manner designed to cause confusion between a marijuana or marijuana-infused product and any product not containing marijuana. Further, it prohibits the manufacture, packaging, and labeling of products that are false or misleading. **Subdivision 2.9(4)** would prohibit a marijuana facility from selling edible marijuana products in forms that would be attractive to children. For each of these two provisions, the penalty may include up to a $5,000 administrative penalty and loss of license. To the extent these violations occur, this proposal could increase total state revenue by an unknown amount.

Subdivision 2.9(5) would create an administrative penalty of up to $5,000 for any business that violates marijuana-infused products packaging requirements as mandated by DHSS. To the extent these violations occur, this proposal could increase total state revenue by an unknown amount.

Subdivision 2.9(12) would prohibit any person or business from extracting resins from marijuana using dangerous materials or gases without a medical marijuana manufacturing license or microbusiness wholesale license. Violations of this provision are subject to an administrative penalty of up to $1,000 for a patient or caregiver and $10,000 for a facility licensee, including a loss of license for up to one year. To the extent these violations occur, this proposal could increase total state revenue by an unknown amount.

Subdivision 2.10(2) would prohibit any person from cultivating marijuana plants that are easily visible to the public. This would create a civil penalty up to $250 and forfeiture of the marijuana. To the extent these violations occur, this proposal could increase total state revenue by an unknown amount.

Subdivision 2.10(3) would require any person to keep their marijuana plants in a locked space. This would create a civil penalty up to $250 and forfeiture of the marijuana for any violations. To the extent these violations occur, this proposal could increase total state revenue by an unknown amount.

Subdivision 2.10(4) would prohibit any person from smoking marijuana in any public place unless it is specifically licensed for that purpose by an entity with appropriate jurisdiction. Violations of this provision are subject to a civil penalty of up to $100. To the extent these violations occur, this proposal could increase total state revenue by an unknown amount.

Subdivision 2.10(5) would prohibit any person under 21 from possessing, using, or delivering three ounces or less of marijuana. Violations of this provision are subject to a civil penalty of up to $100 and forfeiture of the marijuana. Offenders have the option of attending drug education or counseling in lieu of the fine. To the extent these violations occur, this proposal could increase total state revenue by an unknown amount.

Subdivision 2.10(6) would prohibit any person over 21 from possessing, using, or delivering not more than twice the legal limit of marijuana. First violations of this provision are subject to a civil penalty of up to $250 and forfeiture of the marijuana. A second violation is subject to a civil penalty of up to $500 and forfeiture of the marijuana. A third or subsequent violation is subject to a misdemeanor fine up to $1,000 and forfeiture of the marijuana. Any individual under 21 in violation of this subdivision would be subject to a civil penalty of up to $250. Individuals under age 21 have the option of attending drug education or counseling in lieu of the fine. To the extent these violations occur, this proposal could increase total state revenue by an unknown amount.

All penalties under this **subsection 2.10** may be satisfied through performance of community service in lieu of payment of fines.

Subsection 2.10(7-8) would require the expungement of certain marijuana related crimes.

Tax and License Fee Revenue Estimates

B&P notes that while this proposal would begin December 8, 2022, sales tax collections would not begin until at least January 1, 2024 or later due to the application and approval process timelines set forth in Section 3 (Licensure and Certification), subdivision (3). Therefore, B&P will reflect sales tax collections as beginning in early calendar year 2024 (late FY 2024).

Based on research, B&P was able to find forecasts for the U.S. legal market for cannabis. According to such forecasts, the U.S. market for legal marijuana will be approximately $32.1 billion in calendar year 2023 and grow up to $47.3 billion by calendar year 2027. Based on information from the Substance Abuse and Mental Health Services Administration[1], from 2018-2019 approximately 15.03% of Missouri residents and 16.98% of all U.S. residents surveyed have used marijuana within the last year. Using the populations of Missouri residents compared to the U.S. population, B&P estimates that the market for legal marijuana in Missouri is 1.66% of the total U.S. market. Therefore, B&P estimates that the Missouri market for legal marijuana would be approximately $534.1 million in calendar year 2023 ($32.1 billion x 1.66%) and up to $787.1 million by calendar year 2027 ($47.3 billion x 1.66%).

Based on further research[2], B&P estimates that there could be between 61,700 to 122,500 medical marijuana users in Missouri. Using these estimates, and the estimates shown

[1] https://www.samhsa.gov/data/report/comparison-2015-2016-and-2016-2017-nsduh-population-percentages-50-states-and-district

[2] https://www.stltoday.com/news/local/metro/plenty-of-pot-study-says-missouri-will-license-twice-as/article_e94469b0-e1c6-5893-bc2e-e1d7b24f4a73.html

above, B&P estimates that the Missouri market for medical marijuana would be between 0.14% and 0.29% of the total U.S. market for legal marijuana. Therefore, B&P estimates that the total Missouri market for recreational marijuana would be 1.38% to 1.52% of the total U.S. market. Table 1 shows the estimated U.S. and Missouri markets for marijuana.

Table 1: Estimated Marijuana Market Size for the U.S. and Missouri

Calendar Year	Estimated U.S. Market Size	Estimated MO Market Size	Estimated MO Medical Market Size	Estimated MO Recreational Market Size
2023	$32,100,000,000	$534,147,370	$68,884,957	$465,262,414
2024	$35,900,000,000	$597,379,769	$85,613,340	$511,766,429
2025	$39,700,000,000	$660,612,168	$102,341,724	$558,270,445
2026	$43,500,000,000	$723,844,567	$119,070,107	$604,774,460
2027	$47,300,000,000	$787,076,966	$135,798,491	$651,278,476

B&P notes that this petition would begin December 8, 2022. However, given the length of time allowed for license approvals and the time for businesses to become operational, B&P assumes that sales tax collections would not begin until at least July 2023.

Therefore, B&P estimates that this proposal may increase state revenues by $23,789,541 in calendar year 2023. By calendar year 2027, B&P estimates that this proposal may increase state revenues by $66,593,224. This proposal could also increase local revenues by $9,375,038 in calendar year 2023 and $26,246,523 by calendar year 2027. Table 2 shows the estimated revenues generated by calendar year.

Table 2: Sales Tax Collections by Calendar Year

Fund	CY 2023*	CY 2024	CY 2025	CY 2026	CY 2027
GR (3.0% tax)	$6,978,936	$15,352,993	$16,748,113	$18,143,234	$19,538,354
Education (1.0% tax)	$2,326,312	$5,117,664	$5,582,704	$6,047,745	$6,512,785
Conservation (0.125% tax)	$290,789	$639,708	$697,838	$755,968	$814,098
Parks, soil, water (0.1% tax)	$232,631	$511,766	$558,270	$604,774	$651,278
Veterans, Health, and Community Reinvestment Fund (6% tax)	$13,957,872	$30,705,986	$33,496,227	$36,286,468	$39,076,709
TSR (total 10.225% state sales tax)	$23,786,541	$52,328,117	$57,083,153	$61,838,189	$66,593,224
Local Revenue (pop. weighted local rate 4.03%)	$9,375,038	$20,624,187	$22,498,299	$24,372,411	$26,246,523

**Assumes half a year of collections.*

Based on historical sales tax collection data, B&P adjusts calendar year collections 50% into the first fiscal year and 50% into the second fiscal year. Therefore, B&P estimates that this proposal could increase state revenues from taxes by $49,950,600 in FY 2024. By FY 2028, this proposal may increase state revenues from taxes by $66,593,224. This proposal may also increase local revenues by $19,687,131 in FY 2024 and up to $26,246,523 by FY 2028. Table 3 shows the estimated revenue generated by fiscal year.

Table 3: Sales Tax Collections by Fiscal Year

Fund	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GR	$14,655,433	$16,050,553	$17,445,674	$18,840,794	$19,538,354
Education	$4,885,144	$5,350,184	$5,815,225	$6,280,265	$6,512,785
Conservation	$610,643	$668,773	$726,903	$785,033	$814,098
Parks, soil, water	$488,514	$535,018	$581,522	$628,026	$651,278
Veterans, Health, and Community Reinvestment Fund	$29,310,865	$32,101,106	$34,891,347	$37,681,588	$39,076,709
TSR	$49,950,600	$54,705,635	$59,460,671	$64,215,706	$66,593,224
Local Revenue	$19,687,131	$21,561,243	$23,435,355	$25,309,467	$26,246,523

B&P assumes the same number of facility applications will be submitted for the comprehensive facility licenses as was submitted for the medical marijuana program, however DHSS would be required to strictly issue comprehensive facility licenses to current medical marijuana licenses for the first 548 days after initial issuance of licenses. Depending upon DHSS' decision on facility caps, this may result in a full saturation of all licenses by current medically licensed facilities before any licenses can be issued to any entities that do not currently operate a medical marijuana facility. Businesses may be unwilling to expend money on a non-refundable fee due to this requirement resulting in potentially reduced application fee revenue.

B&P further assumes no new licenses will be granted due to current medical marijuana Administrative Hearing Commission appeals before December 7, 2022 keeping the current number of facility licenses unchanged at 341 as of September 3, 2021. Therefore, B&P

estimates that all initial application revenues will be collected in FY 2023 at a total of $18,513,000. Going forward from this date is strictly annual fees for the licensed facilities and renewal fees every third year. Beginning in FY 2024, microbusiness licensing is fully implemented resulting in an estimated $4,496,000 in total facility annual fees going forward. FY 2026 will be the first three year renewal period resulting in an increase in yearly revenue to $5,635,000. All license fees will be deposited into the Veterans, Health, and Community Reinvestment Fund. Table 4 shows the estimated revenue generated by fiscal year.

Table 4: License Fee Collections by Fiscal Year

Facility Type	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Cultivation	$6,984,000	$1,450,000	$1,450,000	$1,740,000	$1,450,000	$1,450,000
Dispensary	$3,010,000	$1,970,000	$1,970,000	$2,561,000	$1,970,000	$1,970,000
Manufacturing	$8,519,000	$860,000	$860,000	$1,118,000	$860,000	$860,000
Microbusiness	$0	$144,000	$216,000	$216,000	$216,000	$216,000
TSR	$18,513,000	$4,424,000	$4,496,000	$5,635,000	$4,496,000	$4,496,000

Subdivision 2.6(8) would allow marijuana related businesses operating under Article XIV to deduct business expenses from their Missouri adjusted gross income. B&P notes that this language is already included under Subdivision 1.4(8), which did not limit the deduction to only medical facilities. Therefore, B&P estimates that this provision will not have an effect beyond that already granted under Subdivision 1.4(8).

Officials from the **Office of State Courts Administrator** indicated the initiative petition proposing to amend Article XIV establishes and modifies provisions relating to the legalization of marijuana for adult use.

The average of all marijuana related charge codes from 2015 to 2019 for Circuit case types is 2,457 per year. The average of all marijuana related charge codes from 2015 to 2019 for Associate case types is 8,153. They are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this proposed legislation:

Criminal Court Costs		
Felony Case Costs	**Amount of Cost**	**Disburse to State/County**
Basic Civil Legal Services Fund surcharge	$10.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00	State of Missouri - General Revenue $36, County $9
County Fee	$75.00	County

Court Automation Fund Fee	$7.00	State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00	State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$5.00	State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	$283.50	
Misdemeanor Case Costs		
Basic Civil Legal Services Fund surcharge	$8.00	State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00	$12 State of Missouri / $3 County
County Fee	$25.00	County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00	State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00	State of Missouri - Brain Injury Fund

Independent Living Center Fund surcharge	$1.00	State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00	State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00	Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$5.00	$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00	County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00	Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00	State of Missouri - Spinal Cord Injury Fund
Total	**$106.50**	
Municipal Case (Filed in Associate Division) Costs		
Clerk Fee	$15.00	$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00	State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50	State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00	State of Missouri - Peace Officer Standards & Training Fund
Sheriffs' Retirement Fund surcharge	$3.00	Sheriffs' Retirement Fund
Total	**$33.50**	
Criminal Costs Not Included Above		
Drug Testing by a State Lab	$150.00	State of Missouri
Drug Testing by a Private Lab	Actual Costs	County Reimbursement
Law Enforcement Arrest		

Costs:		
Highway Patrol		Amt. Approved by the Court
Local (County)		Amt. Approved by the Court
Municipal		Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts and to the specific funds.

They also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time they are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of

their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have a fiscal impact on their office. This initiative petition would provide funding to the State Public Defender (SPD). If these funds are in addition to current funding SPD will be able to provide constitutional representation for additional low income Missourians. The exact amount of the fiscal impact is unknown, but would be 1/3 of the fund balance referenced in Section 6.2(c) (iii).

Officials from the **State Treasurer's office** indicated there is a tax and a variety of fees imposed in this petition. Once in operation, marijuana businesses have had difficulties obtaining and maintaining bank accounts due Federal law and regulations. Their office and the Department of Revenue have explored options to handle large amounts of cash from licensed marijuana businesses as the Department of Revenue may see many of these taxes paid in cash. Changes in security measures and collection points may be needed as the Department of Revenue, the Department of Health and Senior Services, and the Department of Labor and Industrial Relations do not currently receive large amounts of cash. The changes in this initiative petition may increase the potential amount of receipts in cash exponentially. They are unable to determine the fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following as a result of this petition:

Costs:
- ~$30,000 in Sheriff Road Patrol overtime for driving while intoxicated arrests
- ~$5,000 in extra Sheriff fuel use to patrol
- ~$35,000 annually in costs

Savings/Revenues:
- ~$150,000 in local sales taxes
- ~$25,000 in property taxes
- ~$1,000 in liquor-equivalent licenses
- ~$5,000 in planning & zoning permits
- ~181,000 annually in savings/new revenues

Net annual savings of ~$146,000.

Officials from **Greene County** indicated there is anticipated costs to their county for this initiative petition per the following information concerning this initiative petition, https://static1.squarespace.com/static/5541a76ae4b0175cee8827d0/t/580684e5ff7c50adea98399e/1476822252561/Letter+to+CA+from+Denver+DA.jpgI provided by their County Prosecutor, Dan Patterson. There may also be sales tax attained for their county based on the authority given for taxation and funding to impose a retail sales tax in Section 2, page 32. Since it is a may, there is no certainty to ascertain if any tax dollars attained will be collected, and if they are collected any data to suggest an amount of actual sales that will take place to base the estimation on.

In addition, it has been determined though that there may be costs to their county in the provisions of Section 2 on page 31 relating to the county submitting to voters permission to impose an additional sales tax. If a countywide election were held to ask voters the authority for the county to impose a tax, the estimated costs to hold the election would be $357,141.

To help better fully understand the fiscal impact would require a very detailed study to give the best opportunity to understand the impact to law enforcement, prosecutors and the circuit courts within the proposed changes of this initiative petition, which the linked letter demonstrates occurred in Colorado after similar legislation passed. In addition, it would also require a very reliable method of measurement to predict a dependable sales estimate of this product and the impact the sales would have on additional local sales tax receipts for a local entity. Unfortunately neither of these are currently feasible due to the short timeline given to respond.

County Prosecutor, Dan Patterson provided the following information:

DenverDA
Mitchell R. Morrissey, District Attorney - Second Judicial District
201 W. Colfax Avenue, Dept. 801, Denver, CO 80202
Bus. Phone: 720-913-900
Fax: 720-913-903

October 12, 2016

No on 64 Campaign and SAM Action

California voters are being told that they will see the crime rate go down if they vote to legalize marijuana commercially; this has not been the case in the state of Colorado or the city of Denver. Since the legalization of recreational marijuana in Colorado in 2013 traffic related marijuana deaths have increased 48%, marijuana related emergency room visits have increased 49%, and marijuana related calls to the poison center have increased 100%. According to the Colorado Bureau of Investigations in 2015 statewide homicides in Colorado rose 14.7 % over the previous year. Pueblo, Colorado had the highest homicide rate in the state with 11.1 killings per 100,000 residents. Aurora, Colorado's homicide rate more than doubled from 2014. Additionally more places in Colorado were robbed and more thefts occurred, especially cars, as 193,115 motor vehicles were reported stolen, up 27.7 % in 2015 from the previous year. In 2015, sexual assaults rose 10% in Colorado with Denver, Aurora, Lakewood, Westminster and Pueblo all reporting higher numbers as well.

In the city of Denver since the legalization of recreational marijuana the number of crimes in Denver has grown by about 44 %, according to annual figures the city reported to the National Incident Based Reporting System. In 2015 in Denver alone crime rose in every neighborhood in the city. The murder rate hit a decade high, 1059 more cars were broken into, there were 903 more auto thefts, 321 more aggravated assaults and 231 more homes were broken into compared to 2014.

California voters are also being told that legalizing recreational marijuana will free up law enforcement to work on other criminal activities. Again that has not been the case in Denver. Besides the overall increases in crime we have experience, the Denver police department is dealing with a 900% increase in the unlawful cultivation and manufacture of marihuana concentrate, and a 99% increase in the unlawful distribution of marijuana and marijuana concentrate. The quantity of illegal marijuana seized by the Denver police has increased 3,424% on average per case. The volume of marijuana seized per case has increased from an average of 162 pounds to 5724 pounds. In Denver unlawful public consumption of marijuana citations has increased over 300% per year since the legalization of recreational marijuana. The Denver police department is busier enforcing marijuana laws and investigating crimes directly related to marijuana, including murderers, robberies, and home invasions, than any other time in the history of the city.

Sincerely,

Mitchell R. Morrissey
Denver District Attorney

Officials from the **City of Kansas City** indicated the additional sales tax allowed by this proposed amendment could have a positive fiscal impact on their city.

Officials from **Metropolitan Community College** indicated no fiscal impact to their college.

Officials from the **Missouri Veterans Commission** indicated the following:

Michael L. Parson
Governor

Paul Kirchhoff
Executive Director

MISSOURI VETERANS COMMISSION

205 Jefferson Street, P.O. Drawer 147, Jefferson City, MO 65102-0147
Telephone: (573) 751-3779 www.mvc.dps.mo.gov Fax: (573) 751-6836

August 30, 2021

The Honorable John R. Ashcroft
Secretary of State
600 W. Main Street
Jefferson City, MO 65101

Dear Secretary of State Ashcroft,

Initiative Petition 2022-059 (hereinafter, the Petition) could have a disastrous fiscal impact upon the Missouri Veterans Commission. However, as explained below, there are too many variables in the Petition which come into play before the Commission receives its allocation under the proposed non-medical marijuana program to definitively state as much, so the Commission defers to the analysis of its sister agencies as further explained below.

Under the existing medical marijuana program (Article XIV of the Missouri Constitution), the Commission anticipates receiving $2,529,753 in FY22 and $2,929,271 in FY23 from the tax revenues generated from the retail sales of medical marijuana. The Petition makes some changes to that program by making it easier to obtain medical certification to use medical marijuana treatments (hence, a positive impact), but also expands the rights of individuals to cultivate their own marijuana (hence, a negative impact). Therefore, the Commission anticipates an overall neutral fiscal impact from these changes. However, the Petition's greatest potential fiscal impact to the Commission is in the creation of a non-medical marijuana program (the proposed Article XIV, section 2 to the Missouri Constitution) and the nature and extent of that impact is unascertainable at this time.

The currently existing medical marijuana program is predicated on medical need and the physician certification that marijuana is the appropriate treatment for that medical need. Conversely, the non-medical marijuana program has no requirement for medical need or for physician certification. It is only common sense that those wishing to use marijuana products will forego the inconvenience of establishing medical need and obtaining a physician's certification and avail themselves of the non-medical program should one exist regardless of their reason for wanting to use marijuana products. Therefore, we anticipate a significant reduction in the tax revenues generated by the medical marijuana program, perhaps as high as a 90% reduction, should the Petition become law.

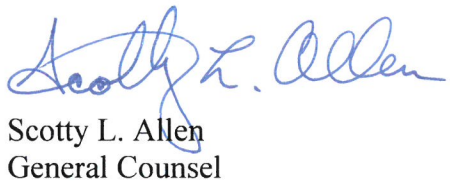
Moreover, given the significantly different distribution of tax revenues provided for under the non-medical marijuana program, it is not clear whether the Commission can anticipate tax revenues generated under the non-medical program to defray the reduction we would experience

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER
services provided on a nondiscriminatory basis

under the medical marijuana program. Specifically, the medical marijuana program establishes a 4% tax on all retail sales of medical marijuana and allocates to the Commission all of those proceeds minus 5% to the Department of Revenue and an amount to the Department of Health and Senior Services necessary to defray their costs in regulating the program. The Petition changes the percentage which the Department of Revenue is entitled to keep to 2%, but otherwise makes no changes to this arrangement. Conversely, the non-medical marijuana program establishes a 6% tax on all retail sales of non-medical marijuana and allocates those proceeds to the "Veterans, Health, and Community Reinvestment Fund" minus 2% for the Department of Revenue. Thereafter, the monies in the "Veterans, Health, and Community Reinvestment Fund" are divided as such: an appropriation for the Department of Health and Senior Services' operating costs in regulating the program; an appropriation for government entities to expunge criminal records as required by the Petition; and then one-third of the remaining proceeds to the Commission.

Therefore, the language of the Petition makes it highly speculative how much in tax revenues under the non-medical marijuana program the Commission could receive. Therefore, the Commission defers to its sister agencies as to the total anticipated tax revenues from the non-medical marijuana program; the operating costs of the Department of Health and Senior Services in regulating such a program; and the costs of government entities to expunge criminal records as required by the Petition. If I can be of any further assistance on this issue, please contact me at (573) 522-4224 at your convenience.

Sincerely,



Scotty L. Allen
General Counsel
Missouri Veterans Commission

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University, Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** and the **Metropolitan Police Department - City of St. Louis.**

Fiscal Note Summary

State governmental entities estimate initial costs of $3.1 million, initial revenues of at least $7.9 million, annual costs of $5.5 million, and annual revenues of at least $40.8 million. Local governments are estimated to have annual costs of at least $35,000 and annual revenues of at least $13.8 million.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-064)

Subject

Initiative petition from Eric McSwain regarding a proposed constitutional amendment to Article XIV of the Constitution of Missouri. (Received September 1, 2021)

Date

September 21, 2021

Description

This proposal would amend Article XIV of the Constitution of Missouri.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University, Missouri Veterans**

Commission, Missouri Office of Prosecution Services, the **Kansas City Board of Police Commissioners,** and the **Metropolitan Police Department - City of St. Louis.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, they expect that their office could absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated the proposed legislation could create new small business opportunities in addition to costs associated with a new business in order to be in compliance with the legislation.

The reduction in state revenue will be $2,910,977 in state fiscal year (SFY) 2023 and $3,362,539 in SFY 2024.

The initiative petition (IP) makes changes to Section 1 of Article XIV. Some changes would require revising existing rules. Their department anticipates being able to absorb these costs. However, until the fiscal year (FY) 2023 budget is final, their department cannot identify specific funding sources.

Section 1.3(12) changes the current patient cultivation application fee projections. The proposed language reduces the annual fee for a patient cultivation card from $100 to $25. The new projected revenues related to patient cultivation applications are $926,737 ($3,837,714 less $2,910,977) for FY2023 and $1,070,496 ($4,433,035 less $3,362,539) for FY2024.

Section 1.3(15) - (17) are deleted, removing DHSS' authority to set limits on the number of licenses granted for medical marijuana facilities and removing the mandatory minimum numbers of licenses DHSS must issue. Preliminary research of other states (CO, OR, and MI) with medical marijuana programs that continued operation after an adult-use program was implemented indicates some reduction in use of the medical marijuana program should

be expected. While the extent of reduction to be expected is unclear, it appears reasonable to assume patient counts will level off rather than continuing to increase. With patient counts (demand) stabilizing and an adult-use program in development (per Section 2 of this IP), there should be no need for or interest in increasing the number of facility licenses (supply). In fact, it may be that the number of medical marijuana licenses could go down if patient demand is not high enough to support the amount of supply current medical marijuana facility numbers can produce. However, their department has no reliable data at this time, other than the projected stabilization of patient demand, on which to conclude that medical marijuana facility numbers would increase or decrease. Therefore, they project that all revenues from medical marijuana fees and taxes would hold steady.

Section 1.4(2)(a) reduces the portion of the Missouri Veterans' Health and Care Fund available to DHSS for administering the medical marijuana program from *"an amount necessary for the department to carry out this section"* to *"an amount not to exceed twenty percent of net deposits which is necessary for the department to carry out this section."*

Total revenues for the Fund in FY2023 are estimated to be $18,991,834. Twenty percent of total revenues is estimated at $3,798,367. The medical marijuana program's operating costs are $13,000,000 million. This would create a budget shortfall of approximately $9,201,633 for FY2023, which would require general revenue (GR) pickup to continue the operations of the program.

Total revenues for the Fund in FY2024 is estimated to be $18,991,834. Twenty percent of total revenue is $3,798,367. The medical marijuana program's operating costs are $13,000,000. This would create a budget shortfall of approximately $9,201,633 for FY2024 and would require GR pickup to continue the operations of the program.

The IP proposes a new Section 2, which establishes adult-use of marijuana and gives regulatory authority over adult-use to the Department of Public Safety, Division of Alcohol and Tobacco Control. There is one provision in this section that establishes a new responsibility for the DHSS. Section 2.6(9) requires that DHSS coordinate with Division of Alcohol and Tobacco Control (DATC) to establish a program through which "excess" cannabis from facilities and adult-use consumers may be sold or donated to facilities that wish to make that cannabis available free of charge to certain qualifying patients and primary caregivers. Their department assumes a need to establish regulations for this program but also assumes there would be minimal need for their department to participate in administration or regulation of the program, as the only DHSS-licensed facilities that would be authorized to participate in the program are 10 testing facilities. Their department anticipates being able to absorb these costs. However, until the FY2023 budget is final, their department cannot identify specific funding sources.

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

However, the impact on the demand for substance use disorder treatment is unknown. Their department sees the legalization of marijuana as a broader public health issue, especially for children.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated the total estimated net effect on all state funds for fiscal year 2024 will be $227,986, fiscal year 2025 will be $676,775, fiscal year 2028 will be $1,071,308.

The estimate of the number of offenders who will be impacted by the proposed legalization of marijuana can be calculated from the sentencing records maintained by their department, but with an important qualification. Most offenders sentenced for drug offenses in Missouri are sentenced for the production, sale, distribution or possession of a controlled substance, but the drug type is not always part of the sentence information that their department receives. In some cases the drug type is known and is included in the offender management database, but the proportion of cases in which the drug related to the offense is known is a minority of the cases. Given that the drug associated with the offense is unknown by their department in the majority of cases, the estimation of the total impact that follows will use the proportions of cases in which the associated drug is known to determine the number of cases in which the associated drug is unknown that are likely related to marijuana. Therefore, they assume 3% of all prison admissions related to drug sentences are related to marijuana (see table 1).

Table 1. FY 2017 through FY 2020 admissions to prison on only drug-related sentences in which the drug associated with the offense is known. (Drug offenses and drug types are identified in the data system through the use of the NCIC categories, modifiers associated with a sentence, and the description of the offense.)

Marijuana	70	3.3%
Other Drug	2,072	96.7%
Total	2,142	100.0%

Of the 922 offenders with new commitments to prison in FY 2020 who were admitted only on drug sentences, 575 were cases in which an offender's youngest age associated with any of those drug offenses was 21 years of age or older. The average length of those sentences was 5.6 years. Based on their assumption that 3% of those sentences are related to marijuana, they estimate 17 admissions for sentences of people 21 years of age or older for offenses related only to marijuana.

In FY 2020, there were 1,263 offenders released from prison who had been incarcerated for new commitments to prison only on drug sentences. Their average length of time served to first release was 1.1 years, which is what their department assumes for all future new commitments in estimating their department's impact.

Based on their analysis of new probation cases related to drug sentences received by their department in FY 2020, approximately 7% of the cases in which the associated drug is known are related to marijuana (see table 2). Therefore, they assume 7% of all new probation cases are based on drug sentences related to marijuana.

Table 2. FY 2020 probation cases related only to drug sentences in which the drug associated with the offense is known. (Drug offenses and drug types are identified in the data system through the use of the NCIC categories, modifiers associated with a sentence, and the description of the offense.)

Marijuana	209	7.0%
Other Drug	2,766	93.0%
Total	2,975	100.0%

Of the 5,138 offenders with new probation cases in FY 2020 whose cases were only on drug sentences, 2,274 were cases in which an offender's youngest age associated with any of those drug offenses was 21 years of age or older. Based on their assumption that 7% of those sentences are related to marijuana, they estimate 159 new probations for sentences of people 21 years of age or older for offenses related only to marijuana. The average length of those sentences was 5.4 years. Given the possibility of earned compliance credit, they apply a 3 year sentence in their estimation of impact.

The estimated cumulative impact of this proposal on their department operations is 44 fewer people in prison and 528 fewer people under supervision in the field by FY 2029.

Change in prison admissions and probation openings with legislation

	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
New Admissions										
Current Law	17	17	17	17	17	17	17	17	17	17
After Legislation	0	0	0	0	0	0	0	0	0	0
Probation										
Current Law	159	159	159	159	159	159	159	159	159	159
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	-17	-17	-17	-17	-17	-17	-17	-17	-17	-17
Probations	-159	-159	-159	-159	-159	-159	-159	-159	-159	-159
Cumulative Populations										
Prison	-17	-34	-44	-44	-44	-44	-44	-44	-44	-44
Parole			-7	-24	-41	-51	-51	-51	-51	-51
Probation	-159	-318	-477	-477	-477	-477	-477	-477	-477	-477
Impact										
Prison Population	-17	-34	-44	-44	-44	-44	-44	-44	-44	-44
Field Population	-159	-318	-484	-501	-518	-528	-528	-528	-528	-528
Population Change	**-176**	**-352**	**-528**	**-545**	**-562**	**-572**	**-572**	**-572**	**-572**	**-572**

*If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (DOC) has changed the way probation and parole (P&P) daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state.

In December 2019, their department reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be their department average district caseload across the state which is 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one full time employee (FTE) staff person. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, their department will use the average caseload figure for that specific type of offender to calculate cost increases/decreases. For instances where the proposed legislation affects a less specific caseload, they project the impact based on prior year(s) actual data for their department's 48 probation and parole districts.

Their department cost of incarceration in $21.251 per day or an annual cost of $7,756 per offender. Their department cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

They also provided the following information.

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: **IP 22-064**

BILL NO: **Article XIV**

Instructions

SUMMARY OF FISCAL IMPACT

Type of Fiscal Note Response: ORIGINAL

Agency:	DOC - Corrections	Date:	9/10/2021
Division:		Telephone:	526-7844
Preparer:	Trevor Foley	E-Mail Address:	trevor.foley@doc.mo.gov
Preparer's Signature:		No Impact on Agency:	
Approval:	Matt Sturm	No Local Fiscal Impact:	
Approval Signature:		Oversight Analyst:	

Note: if both of the "no impact" lines are checked, you only need to complete the "Summary of Fiscal Impact" and "Overview-Questions" worksheets.
Create and complete separate worksheets for each state fund affected.

ESTIMATED NET EFFECT ON STATE FUNDS

Fund Affected	FY 2024	FY 2025	FY 2028
General Revenue	$277,986	$676,775	$1,071,308
Total Estimated Net Effect on All State Funds	**$277,986**	**$676,775**	**$1,071,308**

ESTIMATED NET EFFECT ON FEDERAL FUNDS

Federal Funds	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS

Total Estimated Net Effect on All Local Funds	**$0**	**$0**	**$0**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-064

Fiscal Note Worksheet

BILL NO: Article XIV

Instructions Instructions Instructions

	# to/from Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)		Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 1 (10 months)	(17)	($7,756)	$109,877		(3)	$168,109	$277,986	(159)
Year 2 (includes 2% inflation)	(34)	($7,756)	$268,978		(6)	$407,797	$676,775	(318)
Year 3 (includes 2% inflation)	(44)	($7,756)	$355,051		(9)	$618,299	$973,350	(484)
Year 4 (includes 2% inflation)	(44)	($7,756)	$362,152		(9)	$694,413	$1,056,565	(501)
Year 5 (includes 2% inflation)	(44)	($7,756)	$369,395		(10)	$701,913	$1,071,308	(518)
Year 6 (includes 2% inflation)	(44)	($7,756)	$376,783		(10)	$709,504	$1,086,287	(528)
Year 7 (includes 2% inflation)	(44)	($7,756)	$384,319		(10)	$717,197	$1,101,516	(528)
Year 8 (includes 2% inflation)	(44)	($7,756)	$392,005		(10)	$724,967	$1,116,972	(528)

	# to/from Prison	Cost per year	Total Cost of Prison (includes 2% inflation per year starting in year 2)		Change in number of Probation and Parole Officers	Probation and Parole Officer II Cost per year (includes PS, fringe, E&E and inflation)	Grand Total Prison and Probation	# of Offenders to/from Probation & Parole
Year 9 (includes 2% inflation)	(44)	($7,756)	$399,845		(10)	$732,844	$1,132,689	(528)
Year 10 (includes 2% inflation)	(44)	($7,756)	$407,842		(10)	$740,798	$1,148,640	(528)

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-064
BILL: Article XIV
FUND: General Revenue

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FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033
P&P Officer II	1	$38,753	$32,294	$39,140	$39,532	$39,927	$40,326	$40,729	$41,137	$41,548	$41,964	$42,383
Total FTE			(3)	(6)	(9)	(10)	(10)	(10)	(10)	(10)	(10)	(10)
Total Salary for 1 Employee			$32,294	$39,140	$39,532	$39,927	$40,326	$40,729	$41,137	$41,548	$41,964	$42,383
Total Salaries Per Year for All Employees			($96,882)	($234,840)	($355,788)	($399,270)	($403,260)	($407,290)	($411,370)	($415,480)	($419,640)	($423,830)
Fringe Benefits for 1 Employee			$20,849	$25,269	$25,522	$25,777	$26,035	$26,295	$26,558	$26,824	$27,092	$27,363
Fringe Benefits Per Year for All Employees			($62,548)	($151,615)	($229,698)	($257,772)	($260,348)	($262,951)	($265,583)	($268,237)	($270,922)	($273,629)
TOTAL SALARIES + FRINGE ALL EMPLOYEES			($159,430)	($386,455)	($585,486)	($657,042)	($663,608)	($670,241)	($676,953)	($683,717)	($690,562)	($697,459)

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-064
BILL: Article XIV
FUND: General Revenue

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FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	Units	Unit Cost	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033
Computer Equipment	1	$2,874	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Office Equipment	1	$4,632	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Other Equipment	1	$520	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL EQUIPMENT FOR 1 EMPLOYEE			$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL EQUIP/YEAR FOR ALL EMPLOYEI			$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Expenses	**Units**	**Unit Cost**										
Travel, In-State	1	$425	$354	$436	$447	$458	$470	$481	$493	$506	$518	$531
Travel, Out-of-State	1	$25	$21	$26	$27	$27	$28	$29	$29	$30	$31	$32

Supplies	1	$815	$679	$835	$856	$877	$899	$922	$945	$968	$993	$1,017
Professional Development	1	$450	$375	$461	$473	$484	$496	$509	$522	$535	$548	$562
Communication Svcs & Supp	1	$650	$542	$666	$683	$700	$717	$735	$754	$772	$792	$811
Professional Services	1	$494	$412	$506	$519	$532	$545	$559	$572	$587	$601	$617
Housekeeping & Janitor Svcs	1	$232	$193	$237	$243	$249	$255	$262	$268	$275	$282	$289
M&R Services	1	$350	$292	$359	$368	$377	$387	$396	$406	$416	$427	$437
Equipment Rentals & Leases	1	$30	$25	$31	$32	$33	$33	$34	$35	$36	$37	$38
TOTAL EXPENSE FOR 1 EMPLOYEE			$2,893	$3,557	$3,646	$3,737	$3,830	$3,926	$4,024	$4,125	$4,228	$4,334
TOTAL EXPENSE FOR ALL EMPLOYEES			($8,679)	($21,342)	($32,813)	($37,371)	($38,305)	($39,263)	($40,244)	($41,250)	($42,282)	($43,339)
TOTAL EQUIP AND EXP FOR 1 EMPLOYEI			$2,893	$3,557	$3,646	$3,737	$3,830	$3,926	$4,024	$4,125	$4,228	$4,334
TOTAL E&E FOR ALL EMPLOYEES			**($8,679)**	**($21,342)**	**($32,813)**	**($37,371)**	**($38,305)**	**($39,263)**	**($40,244)**	**($41,250)**	**($42,282)**	**($43,339)**
Local Assistance			$0	$0	$0							
Other Costs (**)**			$0	$0	$0							

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: **IP 22-064**
BILL: **Article XIV**
FUND: **General Revenue**

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SUMMARY OF FUND COSTS

I. Fund Costs by Category	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**FY 2030**	**FY 2031**	**FY 2032**	**FY 2033**
Salaries	($96,882)	($234,840)	($355,788)	($399,270)	($403,260)	($407,290)	($411,370)	($415,480)	($419,640)	($423,830)
Fringe Benefits	($62,548)	($151,615)	($229,698)	($257,772)	($260,348)	($262,951)	($265,583)	($268,237)	($270,922)	($273,629)
Equipment and Expense	($8,679)	($21,342)	($32,813)	($37,371)	($38,305)	($39,263)	($40,244)	($41,250)	($42,282)	($43,339)
Local Assistance	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Other Fund Costs	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**($168,109)**	**($407,797)**	**($618,299)**	**($694,413)**	**($701,913)**	**($709,504)**	**($717,197)**	**($724,967)**	**($732,844)**	**($740,798)**
II. Fund Revenue Sources										
Taxes	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Fines	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Administrative Sanctions	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Other Sources ( )	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL FUND REVENUE - ALL SOURCES	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**
III. Cost Avoidance (Savings)										
Salaries	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Fringe Benefits	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Equipment and Expense	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Other Sources ( )	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$168,109**	**$407,797**	**$618,299**	**$694,413**	**$701,913**	**$709,504**	**$717,197**	**$724,967**	**$732,844**	**$740,798**

Officials from the **Department of Labor and Industrial Relations** indicated they anticipate no fiscal impact for this initiative petition proposing to amend Article XIV, version 2. However, there is a concern over whether the protections provided to employers in section 7 apply to the recreational use of marijuana section.

Officials from the **Department of Revenue** indicated the total estimated net effect on all state funds for fiscal year 2022 will be $0, fiscal year 2023 will be $0, fiscal year 2024 will be $12,173,807 to $18,815,775.

Revenue Impact

Section 1 - Medical Marijuana

This proposal revises the current medical marijuana law. Section 4 regarding taxation adds language stating the department can retain an amount from the medical marijuana tax collected not to exceed 20%. Their department currently withholds only 1% of the money collected to reimburse their expenses. For the period of November 2020 to July 2021 they retained $26,325. They assume this provision will not have any additional impact on their department.

The existing medical marijuana laws are modified to change the definition of marijuana and to expand the number of primary caregivers a person may have. Additionally it changes the requirements that allow medical marijuana patients to cultivate their own marijuana plants. Their department assumes these changes would not fiscally impact their department. Their department is unable to determine if these changes will have a fiscal impact on the amount of tax collected under the medical marijuana or recreational marijuana laws.

Section 2 –Recreational Cannabis

This is an initiative petition that would go to the vote of the people at the November 2022 general election. If this is not adopted by the people, this would not have a fiscal impact.

Should this be adopted at the November 2022 election, by the time certification of the election occurs, it is assumed this constitutional amendment would have a January 1, 2023 effective date. Per the requirements of this proposal, citizens would not be able to file for a license to be certified to sell cannabis until August 2023. Based on the time for certification and the growing time for the cannabis product, it is estimated this proposal would not have a fiscal impact until January 1, 2024, resulting in only a six month impact in fiscal year (FY) 2024. Any fiscal impact stated in this proposal assumes the January 1, 2024 fiscal start date.

This proposal states that is not intended to repeal or replace the medical marijuana market. However this places a lower tax rate on recreational cannabis than on medical marijuana. Currently medical marijuana is taxed at 8.225%. This creates a recreational marijuana tax rate of just 7.5%. The medical marijuana sales tax is distributed as:

Missouri Veterans' Health and Care Fund (4%)
General Revenue (3%)
School Districts Trust Fund (1%)

Conservation Commission 0.125%)
Parks, Soil & Water (0.1%)

Per this proposal the recreational marijuana sales tax would all be deposited into the Missouri Economic Recovery and Growth Fund (MERG). Their department is unable to determine how many taxpayers would buy the recreational marijuana rather that the medical marijuana. If people choose to pay the lower sales tax (recreational marijuana) then the Missouri Veterans' Health and Care Fund, General Revenue, School District Trust Fund, Conservation Commission and Parks, Soil & Water Funds would lose money while the MERG Fund would see increased funding. This impact is estimated to be unknown but significant.

Subsection 3 Regulation
These provisions establish the guidelines for the legalization of cannabis (selling and using) by adults over the age of 21. The provisions include who can sell the product and how much a consumer can possess.

Subsection 3.(2)(q) requires that the Division of Alcohol and Tobacco Control to establish rules regarding the transmittal of tax payments. Their department would work with the Division in order to establish the rules necessary for the collection of the payments as this proposal requires they collect the tax but does not establish a filing frequency for the tax payments or require remittance. They assume this would be done with existing resources.

Subsection 5 – Taxation and Funding
This proposal imposes a tax on cannabis upon the retail sale at a cannabis retail facility. The tax shall be at a rate of 7.5 percent starting January 1, 2023, the effective date of this proposal. (It should be noted this would not fiscally impact the state until January 1, 2024 as previously described above).

It should be noted that this proposal requires the collection and payment of this cannabis tax but does not specify when it is to be paid. Additionally, their department is not given rulemaking authority to set the collection dates for this tax that was given to the Division of Alcohol and Tobacco Control (as mentioned above). For the calculation of the fiscal note, their department assumes this tax will be collected and remitted at the same time regular sales and use tax is collected. Should it be determined a different remittance time is allowed, the projected fiscal impact could be different than calculated.

All tax revenues per this proposal are to be deposited into the Missouri Economic Recovery and Growth Fund (MERG).

Based on a study completed by Gallup, 12 percent of the nation's adults smoke cannabis regularly. Based on information published on suburbanstats.org, there are approximately 4,181,284 individuals at age 21 or above in the State of Missouri, 12% of the total number of adults aged 21 or older would equal 501,754 adults.

A report published by Headset Inc, a new market insights from Seattle-based cannabis intelligence company, believes that the average cannabis consumer spends roughly $647 on cannabis and related products per year. Based on information provided in the report published by Headset Inc, the largest pool of individuals surveyed spent $1,000 or above each year on cannabis and cannabis products. These amount of $647 and $1000 will allow them to estimate a fiscal impact range.

Their department notes that sales tax is added to the purchase prices. Therefore at the low rate of $647 they assume total taxable sales of $324,634,838 ($647 * 501,754). Therefore at the low end they estimate the 7.5% collected sales tax would be $24,347,613 ($324,634,838 * 7.5%).

At the upper rate of $1,000 they assume a total taxable sales of $501,754,000 ($1,000 * 501,754). Therefore at the upper end they estimate the 7.5% collected sales tax would be $37,631,550 ($501,754,000 * 7.5%).

Fiscal Year 2024 (6 months)		**Fiscal Year 2025**	
Increase to MERG Fund		**Increase to MERG Fund**	
Low	**High**	**Low**	**High**
Could be less than $12,173,807	Could be less than $18,815,775	$24,347,613	$37,631,550

This proposal also allows local political subdivisions to adopt a cannabis sales tax. Their department assumes a current local sales and use tax rate of 4.03%. At this current rate it is estimated this would generate $13,082,784 to $20,220,686 for local governments. Their department is unable to determine how many would adopt the sales tax. Therefore, this may result in a lesser amount than projected.

This proposal allows their department to retain up to 2% of the tax collected to pay for the administration and collection of the tax. This would allow their department to retain $486,952 to $752,631 based on amount collected. They are unsure if this would cover all of their department's expenses. Should it not be enough, they will request additional funding through the appropriation process. The estimated administrative impact:

A new reporting form will need to be developed to track and monitor the tax on the sale of cannabis. 2 Associate Customer Service Representatives (ASCR) at $24,360 for processing reporting forms, phone calls and correspondence received. 1 Management Analysis Specialist (MAS) at $38,476 to work with Division of Alcohol and Tobacco Control to administer this section as significant coordination may be required. Their department will need to make programming changes to the current sales and use tax databases. This is estimated at $10,000.

They also provided the following information:

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FISCAL NOTE: 22-064
BILL:
FUND: MERG

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FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2022	FY 2023	FY 2024
ASCR	2	$24,360			$49,699
MAS	1	$38,476			$39,249
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**3**		**3**	**3**	**3**
Total Salaries			**$0**	**$0**	**$88,949**
Fringe Benefits					**$65,840**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____
BILL: _____
FUND: General Revenue

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FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2022	FY 2023	FY 2024
Cubicle w/work surface &	580	3	$6,800			$20,400
Chair	580	3	$596			$1,788
Calculator	580	3	$20			$60
Desk Computer System &	480	3	$1,371			$4,113
Telephone Cisco US Stand	340	3	$525			$1,575
computer programmming		1	$10,000			$10,000
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$0	$0	$37,936
Expenses	**BOBC**	**Units**	**Unit Cost**			
Expendable Supplies		3	$372			$1,172
Recurring Expenses		3	$107			$337
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$0	$1,509
TOTAL EQUIPMENT AND EXPENSE				$0	$0	$39,445
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: _____

BILL: _____

FUND: **General Revenue**

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SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2022	FY 2023	FY 2024
Salaries	$0	$0	$88,949
Fringe Benefits	$0	$0	$65,840
Equipment and Expense	$0	$0	$39,445
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$0**	**$194,234**
II. Fund Revenue Sources			
cannabis recreational sales tax	$0	$0	$12,173,807-$18,815,775
Fines	$0	$0	$0
Administrative Sanctions	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND REVENUE - ALL SOURCES	**$0**	**$0**	**$0**
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**$0**	**$12,173,807-$18,815,775**

Officials from the **Department of Public Safety - Office of Director** indicated no impact for the Department of Public Safety, Director's office. The Missouri Veterans Commission has addressed their fiscal concerns in a separate response to the State Auditor's Office. The following responses are from the Division of Alcohol and Tobacco Control and the Missouri State Highway Patrol.

The Division of Alcohol and Tobacco Control (ATC) provided the following:

This proposal will affect local law enforcement and city and county licensing authorities.

They will need to increase the space for each district office to accommodate 24 additional staff in the Jefferson City office, 14 additional staff in the St. Louis office and 13 additional staff in the Springfield and Kansas City offices, along with additional storage space for evidence, for fingerprinting scanners and reception space to consult with licensees.

Jefferson City Office (Expansion) - They are requesting an additional 8,400 square feet of office space for 24 FTE, along with a reception area and evidence room. (300 square feet for each FTE, 600 square feet for evidence storage, and 600 square feet for reception area).

Rental Rate - $151,200 ($18 per square feet X 8,400 square feet) and Janitorial $12,600 ($1.50 per square feet X 8,400) and Utility Rates $16,800 ($2.00 per square feet X 8,400) - $29,400 ($3.50 per square feet X 8,400)
TOTAL FOR JEFFERSON CITY - $180,600

Kansas City Office (Expansion) – They will need 5,100 square feet of office space for 13 FTE, along with a reception area and evidence room. (300 square feet for each FTE, 600 square feet for evidence storage, and 600 square feet for reception area).

Rental Rate - $107,100 ($21 per square feet X 5,100 square feet) and Janitorial $7,650 ($1.50 per square feet X 5,100) and Utility Rates $10,200 ($2.00 per square feet X 5,100) - $17,850 ($3.50 per square feet X 5,100)
TOTAL FOR KANSAS CITY - $124,950

Springfield Office (Expansion) – They will need 5,100 square feet of office space for 13 FTE, along with a reception area and evidence room. (300 square feet for each FTE, 600 square feet for evidence storage, and 600 square feet for reception area).

Rental Rate - $91,800 ($18 per square feet X 5,100 square feet) and Janitorial $7,650 ($1.50 per square feet X 5,100) and Utility Rates $10,200 ($2.00 per square feet X 5,100) - $17,850 ($3.50 per square feet X 5,100)
TOTAL FOR SPRINGFIELD - $109,650

St. Louis Office (Expansion) - They will need 5,400 square feet of office space for 14 FTE, along with a reception area and evidence room. (300 square feet for each FTE, 600 square feet for evidence storage, 600 square feet for reception area).

Rental Rate - $113,400 ($21 per square feet X 5,400 square feet) and Janitorial $8,100 ($1.50 per square feet X 5,400) and Utility Rates $10,800 ($2.00 per square feet X 5,400) - $18,900 ($3.50 per square feet X 5,400)
TOTAL FOR ST. LOUIS - $132,300

They are also requesting an additional $150,000 per location for renovation costs that are not covered in the above figures for a total of $600,000.

TOTALS
Total Rent Costs – (24,000 square feet) - $463,500
Total Janitorial – (24,000 square feet X $1.50) $36,000
Utility Rates – (24,000 square feet X $2.00) - $48,000
Renovation Costs – (First year only) - $600,000
TOTAL COSTS - $1,147,500

The opportunities for small businesses to be included in this new industry are great. It will provide new opportunities for licensees to open businesses across the state to manufacture, produce, retail, or test marijuana products that are currently not legal. In Colorado, as of December 1, 2020, there were 1,616 licensed businesses as a result of adult use marijuana. In addition, Colorado has 41,564 occupational licenses related to marijuana as of December 1, 2020 (Note this number includes all marijuana occupational licensees as medical occupational licensees can work both retail and medical marijuana establishments). (Colorado Department of Revenue Retail Marijuana Facilities).

The following is the Office of Administration - Information Technology Services Division's (ITSD's) estimate. They will need a seed to sale tracking of each marijuana plant, and licensing of all establishments as well as occupational licenses for those involved in the manufacture, production, testing or sale of marijuana. Note: This response was provided in January 2021 for other proposed adult use marijuana legislation. They did not have enough time to get an updated response, but estimates similar costs.

ITSD Response

Fiscal Note	IP 22-064		ITSD - DPS		
Bill Number					
Will a new system be required?		X	Yes		No
Indicate fiscal year when fully implemented			FY 2023		
ESTIMATED NET EFFECT ON STATE FUNDS					
Fund Affected			**FY23**	**FY24**	**FY25**
General Revenue			1,000,000	-	-
Other			-	-	-
Federal Funds			-	-	-
Total			1,000,000	-	-
It is assumed that every new IT project/system will be bid out because all ITSD resources are at full capacity.					
Bill Section(s)	Article XIV, Section 2				
			FY23	FY24	FY25
New	Rate	Hours	$	$	$
IT Consultants	95	746.31	70,900	-	-
Other Costs:					
Procurement of Licensing System	929,100	1	929,100	-	-
Section Total Other Costs:			929,100	-	-
Section Total Expenditures:			1,000,000	-	-
Section Funding:	General Revenue		1,000,000	-	-
	Federal		-	-	-
	Other		-	-	-
	Total		1,000,000	-	-

They will model the fiscal effects similar to the Colorado law enacted in 2012. Colorado's FY20 revenue from sales tax of 15% from recreational marijuana was almost $226 million (Colorado brought in more than $319 million in taxes for FY20, including sales tax and excise tax. Colorado DOR Marijuana Tax Data) This constitutional amendment does not provide for an excise tax and has a retail sales tax rate of 7.5%. Since Missouri's population of over 6.1 million exceeds Colorado's approximately 5.8 million, they believe Missouri will generate at least 6% more in sales. Since licenses will not be issued until August, 2023,

they do not predict a collection of retail sales tax in FY23. They predict first year sales tax revenue of over $89 million in FY24.

In addition, Washington generated over $185 million in tax revenue during the first fiscal year (FY16), over $387 million during FY19 and over $468 million during FY20. That number will continue to increase as the market continues to grow and refine. (Washington State Liquor and Cannabis Board – Fiscal Year Sales and Excise)

Sales of small amounts of recreational marijuana for personal use began October 1, 2015 in Oregon, and licensing began in 2016. Oregon generated over $70 million during FY17, over $82 million during FY18 and over $133 million during FY20. (Oregon DOR Marijuana Tax Statistics – Tax Payments Received).

Revenue will be generated from licensing establishments for the cultivation and production of marijuana for adult use. Revenue collected will be deposited into a marijuana cash fund that will be used for the administration and enforcement of Article XIV, Section 2. They have estimated that deposits will not be made into this fund until FY24 as they will not begin accepting license applications until August 1, 2023 (FY24). They estimate that licensing and user fees will bring in $7,214,309 in the first year of operation (FY24) and $9,040,361 in the second year (FY25). Renewal fees will be the same amount as application license fees. They have estimated about a 10% turnover in licensing for the second year of operation. (See Attached schedule for a more detailed description of the revenue generation.)

They will annually review the fees and charges to determine if adjustments are necessary to reflect the actual direct and indirect costs of the division in the administration and enforcement of the adult use marijuana licensing program.

They do not believe the first two years will result in monetary disciplinary penalties as the licensing process will not begin until FY24. It is estimated that in FY25 and ongoing, monetary penalties could result in between $25,000 - $500,000 annually. *(It should also be noted that they believe it might be a conflict of interest to receive the financial benefits from the administrative disciplinary process by being responsible for enforcing the law, administering discipline and then collecting money from the violators, and thus concludes that monetary penalties should be treated in the same manner as Alcohol and deposited into local school districts.)*

Section 2.2(13) names ATC as the division responsible for implementing this constitutional amendment. They will be responsible for implementing a comprehensive licensing and regulatory system for the cultivation, manufacture, sale, distribution, dispensing and testing of adult use marijuana and adult use marijuana products in the state of Missouri.

Section 2.3(2) requires ATC to promulgate rules for the proper regulation and control of the adult use marijuana act. In order to meet that deadline, they would initially hire a marijuana consultant who has experience in implementing an adult use marijuana program in other states. This person would help set out a framework for implementation of a seed

to sale tracking system, promulgate rules, and provide information on testing protocols that need to be in place to assure product integrity. This person would start January 1, 2023 and would require general revenue funding for his or her fee and expenses for the first year. They have estimated costs of approximately $6,492,870 in FY23, which would require general revenue funding as no revenue will be generated from licensing until after August 1, 2023. (See attached spreadsheet for more details). This estimate reflects total costs for the marijuana consultant and equipment, and partial costs for salaries and expenses, which are calculated as three months for FY23. They will not hire the new staff until April 1, 2023. An estimated two months of FY24 will also require general revenue funding.

Section 2.4(7) gives ATC authority to establish application, licensing and renewal fees, provided that the application/renewal fee does not exceed $2,500. (See attached revenue spreadsheet for details).

Section 2.4(8) gives ATC authority to establish certification and renewal fees, provided that the certification /renewal fee does not exceed $1,000. (See attached revenue spreadsheet for details).

Section 2.5(2) levies a retail sales tax on the sale of adult use marijuana at retail stores at a rate of 7.5%. The taxes shall be collected by the Department of Revenue. They have calculated estimated tax revenue based on Colorado's collections, adjusted to reflect 7.5% tax instead of 15% tax. They are not including the fiscal impact of retail sales tax on the fiscal note worksheet, as it will be collected by Department of Revenue and should be reported by Department of Revenue.

Section 2.5(8) provides that localities can choose to impose a retail sales tax on retail sales of marijuana.

To implement this constitutional amendment, they would add staff at four district offices (Kansas City, St. Louis, Springfield, and Jefferson City) and station a District Supervisor, ten Agent/Special Agents, an Administrative Office Support Assistant, and an Agricultural Expert in each office to be able to cover the territory more effectively and efficiently. This would allow potential licensees more direct access to ATC staff to facilitate licensing demands and respond to questions.

Each office would have an ID card printing device to facilitate the occupational licensing of an expected 43,866 possible owners, managers, officers, and employees of an approximate 1,715 licensed and certified establishments. These numbers were calculated using Colorado's statistics. Since Missouri has approximately 6% additional population, the numbers were adjusted to reflect that increase. The Jefferson City office will have two ID card printers. The total cost for the ID Card Printers and supplies will be approximately $85,157 in FY23.

Stringent background checks will be required and will require agents to follow up in various measures to assure the person applying is of good moral character, and that the affirmations in the application are valid and true. Inspections would be required to verify

information on the licensed premises, and to validate that the signage, security and sanitary requirements are being met. A thorough review of applicant's financial records must be made. Background checks would be required on each owner, officer, manager, stockholder, and all employees who work at or are otherwise associated with the operation. Following is the specific breakdown of the positions requested:

District Supervisor – 4 – ATC would locate a District Supervisor in each office to oversee the activities of ten Agent/Special Agents located in the field offices.

Agents/Special Agents – 40 – Special Agents would each be assigned a specific territory in the district to oversee licensing and regulation. Agents would be the key contact person for licensees to contact with questions and application problems. Agents would attend public hearings, perform inspections and do background checks. They will have 4 districts.

Administrative and Fiscal Manager – 1 – The Administrative and Fiscal Manager will be responsible for all budgetary, fiscal, administrative and legislative aspects of the adult use marijuana program.

Lead Administrative Support Assistant – 7 – The Lead Administrative Support Assistants will be assisting in the large amount of clerical work related to the implementation and ongoing licensing of all the retail marijuana stores, cultivation and production facilities, medical testing facilities, hospitality facilities, delivery and transportation certifications, and all the occupational licenses. Four will be located in the field offices (2 in St. Louis, 1 in Kansas City, 1 in Springfield) and three will be located in the Jefferson City central office.

Administrative Support Professional – 3 – The Administrative Support Professionals would be working with the administrative and licensing sections to process licenses, data entry, track statistics, and facilitate the composition of the reports required by law. They would in addition be utilized to assist in the payroll and payables of processing the increased transactions.

Auditor – 4 – The Auditors will be responsible for auditing licensed premises records to ascertain that the licensee is keeping records according to regulatory standards.

Staff Attorney (Marijuana) – 1 – This person would be responsible for sorting through the complex language of the constitutional amendment, and interpreting the statutes and assisting with the promulgation of new rules to implement the act, as well as ongoing legal counsel regarding the adult use marijuana program.

Agricultural Expert – 4 – The agricultural experts will assist with the technical aspects of the marijuana growth process, cultivation, preparation of, testing of, storage of and anything to do with the product itself.

Expense and Equipment would be necessary for staff as outlined in the expense and equipment fiscal portion to include basic office equipment, laptops and telephone

equipment. Agents will need law enforcement equipment to include weapons, ammunition, ballistic vest, vehicles, travel expenses, etc. (See Attached Marijuana Fiscal Note Spreadsheet).

ITSD Response:

Note: This response was provided in January 2021 for other proposed adult use marijuana legislation. They did not have enough time to get an updated response, but estimates similar costs.

ITSD - DPS							
Bill Number	IP 22-064						
Bill Section(s)	Article XIV, Section 2						
Application Name:	New				**FY23**	**FY24**	**FY25**
IT Consultants		**On-going Yes/No**	**Rate *1**	**Hours**	**$**	**$**	**$**
Development work			95	691.03	65,648	-	-
Project Management *2			95	55.28	5,252	-	-
On-going support			95		-	-	-
Section Total IT Consultants:			95	746.31	70,900	-	-
Other Costs:			**Cost Per**	**Number**	**$**	**$**	**$**
Procurement of Licensing System		no	929,100	1	929,100	-	-
Section Total Other Costs:					929,100	-	-
Section Total Expenditures: *3					1,000,000	-	-
General Revenue					1,000,000	-	-
Federal					-	-	-
Other					-	-	-
Section Funding:					1,000,000	-	-
2. Does this proposal duplicate any other program?							
This potentially duplicates the DHSS medical marijuana system.							
8a. Provide narrative on the IT impact this bill would have (program expansion or modifications, new application, consolidation, etc.)							
ATC does not currently have a system with the proposed functionality. A new system would be needed.							
8b. Explanation of assumptions and methodology used in arriving at the impact; Please reference and/or attach any/all supporting documentation to email.							

The cost estimate is based on the projected cost for the Department of Health and Senior Services (DHSS) medical marijuana system. DHSS was designated as the department responsible for the regulation and licensure of medical marijuana after Missouri voted to legalize it in November of 2018. DHSS is currently developing a system for the regulation and licensure of marijuana, with a current estimated total cost of approximately one million dollars and expected completion toward the end of 2020. Development of the system is approximately ninety-eight percent complete. If passage of this bill would shift responsibility of the regulation and licensing of medical marijuana from DHSS to the Department of Public Safety, Division of Alcohol and Tobacco (DPS), DPS would have the option to adopt/carry forward the system work completed, or develop a separate/new system.

Additional Notes/Assumptions:
*1 The consultant rate of $95 per hour is an estimated rate based on current contract(s) pricing. It is assumed that any new IT project/system will be bid out, as all ITSD resources are at full capacity.
*2 Project Management hours is an estimated rate of 8% based on current/projected averages.
*3 BOBC 400

Comments:

ATC believes that for the proper administration and enforcement of the adult use marijuana initiative petition, the division would need to be authorized with powers of arrest. This could be done by adding "Article XIV, Section 2 relating to adult use marijuana" as below:

311.630. 1. The supervisor of alcohol and tobacco control and employees to be selected and designated as peace officers by the supervisor of alcohol and tobacco control are hereby declared to be peace officers of the state of Missouri, **[**with full power and authority to make arrests and searches and seizures only for violations of the provisions of**] whom shall be vested with the powers and duties specified in this chapter and all powers necessary to enable such peace officers to fully and effectively carry out the purposes of** this chapter relating to intoxicating liquors, **Article XIV section 2 relating to adult use marijuana,** and sections 407.924 to 407.934 relating to tobacco products, and to serve any process connected with the enforcement of such laws. The peace officers so designated shall have been previously appointed and qualified under the provisions of section 311.620 and shall be required to hold a valid peace officer license pursuant to chapter 590.

2. The supervisor of alcohol and tobacco control shall furnish such peace officers with credentials showing their authority and a special badge, which they shall carry on their person at all times while on duty. The names of the peace officers so designated shall be made a matter of public record in the office of the supervisor of alcohol and tobacco control.

3. All fees for the arrest and transportation of persons arrested and for the service of writs and process shall be the same as provided by law in criminal proceedings and shall be taxed as costs.

Technical errors:

Section 2.2 (8) refers to the division of health and senior services. This should read department of health and senior services.

Section 2.3 (2) (r) refers to the division of revenue. This should read the department of revenue.

Section 2.5 (3) (b) says that monies collected shall be distributed by the division. This should say that monies collected shall be distributed by the department of revenue. The division (alcohol and tobacco control) will not be collecting taxes. The department of revenue will be collecting all sales tax monies and should be responsible for distributing the funds appropriately.

Section 2.5 (3) (c) says that monies collected shall be distributed by the division. This should say that monies collected shall be distributed by the department of revenue. The division (alcohol and tobacco control) will not be collecting taxes. The department of revenue will be collecting all sales tax monies and should be responsible for distributing the funds appropriately.

Section 2.6 has two subsection (3). The second subsection (3) should be changed to (4), subsection (4) changed to (5), subsection (5) changed to (6), subsection (6) changed to (7), subsection (7) changed to (8), subsection (8) changed to (9), and subsection (9) changed to (10).

Section 2.7 has two subsection (3) and subsection (4). The second subsection (3) should be changed to (5), and the second subsection (4) should be changed to (6).

Section 2.7 (3) (the first one) states that the local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees or certificate holders. The word "fees" should be changed to "fee".

They also provided the following information:

FISCAL ESTIMATE WORKSHEET
OVERSIGHT DIVISION (573)751-4143
FAX (573)751-7681

FISCAL NOTE: IP 22-064
BILL NO:

Instructions

SUMMARY OF FISCAL IMPACT

Type of Fiscal Note Response:

Agency:	Public Safety	Date:	9/10/2021
Division:	Alcohol & Tobacco Cont	Telephone:	573-751-5449
Preparer:	Kristen Cole	E-Mail Address:	kristen.cole@dps.mo.gov
Preparer's Signature:	Kristen Cole	No Impact on Agency:	
Approval Signature:	Kristen Cole	No Local Fiscal Impact:	
Oversight Analyst:			

Note: if both of the "no impact" lines are checked, you only need to complete the "Summary of Fiscal Impact" and "Overview-Questions" worksheets.
Create and complete separate worksheets for each state fund affected.

ESTIMATED NET EFFECT ON STATE FUNDS

Fund Affected	FY 2023	FY 2024	FY 2025
General Revenue	($6,492,870)	($1,156,985)	$0
Adult Use Fund	$0	$644,187	$1,224,101
Total Estimated Net Effect on All State Funds	**($6,492,870)**	**($512,798)**	**$1,224,101**

ESTIMATED NET EFFECT ON FEDERAL FUNDS

Federal Funds	$0	$0	$0
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS

Total Estimated Net Effect on All Local Funds	**$0**	**$0**	**$0**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-064

BILL:

FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2023	FY 2024	FY 2025
District Supervisor	4	$58,389	$58,389	$39,315	$0
Agents/Special Agents	40	$51,112	$511,120	$344,154	$0
Admin/Fiscal Manager	1	$68,000	$17,000	$11,447	$0
Lead Adm. Spprt. Asst.	7	$35,000	$61,250	$41,242	$0
Auditors	4	$47,000	$47,000	$31,647	$0
Staff Attorney	1	$80,000	$20,000	$13,467	$0
Agricultural Expert	4	$70,000	$70,000	$47,133	$0
Administrative Support Profession	3	$38,500	$28,875	$19,443	$0
Marijuana Consultant **	1	$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
** Costs under Prof.		$0	$0	$0	$0
Services below		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Note - FY'23 estimates the		$0	$0	$0	$0
cost for 3 months. FY'24		$0	$0	$0	$0
estimates the cost for 2 months.		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**65**		**65**	**65**	**65**
Total Salaries			**$813,634**	**$547,847**	**$0**
Fringe Benefits			**$468,626**	**$314,248**	**$0**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-064
BILL:
FUND: General Revenue

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2023	FY 2024	FY 2025
Computer Equipment	480	64	$1,663	$106,432		
Motorized Equip.	560	52	$34,000	$1,768,000		
Office Equipment	580	64	$10,175	$651,200		
Other Equip.	590	52	$12,566	$653,432		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$3,179,064	$0	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Travel	140	52	$2,400	$31,200	$21,320	$0
Supplies	190	64	$5,388	$86,208	$58,909	$0
Professional Development	320	64	$800	$12,800	$8,747	$0
Comm. Srv./Supply	340	64	$3,412	$54,592	$37,305	$0
Professional Services	400	44	$3,709	$1,040,799	$27,879	$0
Maintenance & Repair	430	64	$4,167	$66,672	$45,559	$0
Miscellaneous	740	64	$150	$2,400	$1,640	$0
			$0	$0	$0	$0
Professional Services			$0	$0	$0	$0
covers hiring a consultant			$0	$0	$0	$0
and ITSD costs in FY'23.						
			$0	$0	$0	$0
Leasing Costs		1	$547,500	$736,875	$93,531	$0
including Janitorial, and			$0	$0	$0	$0
Utilities. Renovation costs			$0	$0	$0	$0
for FY'23.			$0	$0	$0	$0
TOTAL EXPENSE				$2,031,546	$294,890	$0
TOTAL EQUIPMENT AND EXPENSE				$5,210,610	$294,890	$0
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-064
BILL:
FUND: General Revenue

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2023	FY 2024	FY 2025
Salaries	$813,634	$547,847	$0
Fringe Benefits	$468,626	$314,248	$0
Equipment and Expense	$5,210,610	$294,890	$0
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$6,492,870**	**$1,156,985**	**$0**
II. Fund Revenue Sources			
Taxes	$0	$0	$0
Fines	$0	$0	$0
Administrative Sanctions	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND REVENUE - ALL SOURCES	**$0**	**$0**	**$0**
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**($6,492,870)**	**($1,156,985)**	**$0**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-064

BILL:

FUND: Adult Use (ATC) Fund

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2023	FY 2024	FY 2025
District Supervisor	4	$59,389	$0	$199,943	$242,331
Agents/Special Agents	40	$51,112	$0	$1,720,771	$2,085,574
Admin/Fiscal Manager	1	$68,000	$0	$57,233	$69,367
Lead Adm. Spprt. Asst.	7	$35,000	$0	$206,208	$249,925
Auditors	4	$47,000	$0	$158,233	$191,779
Staff Attorney	1	$80,000	$0	$67,333	$81,608
Agricultural Expert	4	$70,000	$0	$235,667	$285,628
Administrative Support Profession	3	$38,500	$0	$97,213	$117,822
Marijuana Consultant **	1	$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
** Costs under Prof.		$0	$0	$0	$0
Services below		$0	$0	$0	$0
		$0	$0	$0	$0
Note - FY'24 estimates the		$0	$0	$0	$0
cost for 10 months. The first 2		$0	$0	$0	$0
months will be paid from GR.		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**65**		**65**	**65**	**65**
Total Salaries			**$0**	**$2,742,601**	**$3,324,033**
Fringe Benefits			**$0**	**$1,572,378**	**$1,897,961**

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-064
BILL:
FUND: Adult Use (ATC) Fund

Instructions Instructions Instructions

FUND COSTS BY CATEGORY

Expenditure by Category Equipment by Item	BOBC	Units	Unit Cost	FY 2023	FY 2024	FY 2025
Computer Equipment **	480	64	$1,663	$0	$21,286	$21,286
Motorized Equip. **	560	52	$34,000	$0	$707,200	$707,200
Office Equip. **	580	64	$10,175	$0	$19,536	$19,536
Other Equip. (Other) **	590	52	$12,566	$0	$32,672	$32,672
			$0	$0		
**Reflects a replacement			$0	$0		
cost in FY'23 and each			$0	$0		
year after			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
			$0	$0		
TOTAL EQUIPMENT				$0	$780,694	$780,694
Expenses	**BOBC**	**Units**	**Unit Cost**			
Travel	140	52	$2,400	$0	$106,600	$131,118
Supplies	190	64	$5,388	$0	$294,544	$362,289
Professional Development	320	64	$800	$0	$43,733	$53,792
Comm. Srv./Spply	340	64	$3,412	$0	$186,523	$229,423
Professional Services	400	44	$3,709	$0	$139,397	$171,458
Mnt & Repair	430	64	$4,167	$0	$227,796	$280,189
Miscellaneous	740	64	$150	$0	$8,200	$10,086
			$0	$0	$0	$0
** See Detail in attached			$0	$0	$0	$0
spreadsheets			$0	$0	$0	$0
Leasing Costs		1	$547,500	$0	$467,657	$575,217
including Janitorial			$0	$0	$0	$0
and Utilities			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$0	$1,474,449	$1,813,572
TOTAL EQUIPMENT AND EXPENSE				$0	$2,255,143	$2,594,266
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: IP 22-064

BILL:

FUND: Adult Use (ATC) Fund

Instructions Instructions Instructions

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2023	FY 2024	FY 2025
Salaries	$0	$2,742,601	$3,324,033
Fringe Benefits	$0	$1,572,378	$1,897,961
Equipment and Expense	$0	$2,255,143	$2,594,266
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$0**	**$6,570,122**	**$7,816,260**
II. Fund Revenue Sources			
Taxes	$0	$0	$0
Fines	$0	$0	$0
Administrative Sanctions	$0	$0	$0
Other Sources (Licensing and Fees)	$0	$7,214,309	$9,040,361
TOTAL FUND REVENUE - ALL SOURCES	**$0**	**$7,214,309**	**$9,040,361**
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**$0**	**$644,187**	**$1,224,101**

Division of Alcohol and Tobacco Control - IP 22-064

Sep-21

Class Title	Qty	Unit Cost	Ongoing Annual Costs
	-	-	-
District Supervisor	4	59,389	237,556
Agents/Special Agents	40	51,112	2,044,480
Auditor	4	47,000	188,000
Admin/Fiscal Manager	1	68,000	68,000
Lead Administrative Support Assistant	7	35,000	245,000
Administrative Support Professional	3	38,500	115,500
Agricultural Expert	4	70,000	280,000
Staff Attorney	1	80,000	80,000
Marijuana Consultant Expert	1	-	-
	65		
Total PS			**3,258,536**

The costs reflected in the fiscal note for FY'24 reflect the percentage cost increase that is calculated in the ongoing years. This worksheet shows as if calculated as FY'23 expenses.

	BOBC	Qty	Amount	Total	FY'23 E&E Costs	Ongoing Annual Costs	ONE TIMES
Travel - In-State	140				124,800	124,800	
Travel expenses ($200 per month)		52	2,400	124,800			
Supplies	190				344,820	344,820	
Office Supplies		64	372	23,808			
ID Card Printer Supplies		1	29,812	29,812			
Ammunition (for two firearms)		44	1,300	57,200			
Gasoline (2,500 miles/20 mpg X $3 per gallon)		52	4,500	234,000			
Professional Development	320				51,200	51,200	
Ongoing Enforcement Training & Professional Development		64	800	51,200			
Communication Services and Supplies	340				218,344	218,344	
Cell phone service ($45 a month)		54	540	29,160			
PC Internet Wireless Services ($60 a month)		64	720	46,080			
Software Licenses Annually		64	400	25,600			
AD & Exchange ($87.96 a month)		64	1,056	67,584			

Telecommunication Relocations		64	300	19,200			
Phone Service ($40 per month)		64	480	30,720			
Professional Services	400				163,200	163,200	
Marijuana Consultant Expert		1	150,000	150,000			
ID Checker Software Service ($25 a month)		44	300	13,200			
Maintenance and Repair	430				266,695	266,695	
Vehicle Maintenance & Repair		52	4,080	212,160			
ID Card Printer Maintenance & Repair		5	667	3,335			
Computer Equipment Maintenance and Repair		64	800	51,200			
Computer Equipment	480				106,394	21,279	85,115
Notebook		64	1,525	97,600			
Monitor		64	121	7,744			
Printers		7	150	1,050			
Motorized Equipment	560				1,768,000	707,200	1,060,800
Automobile		52	34,000	1,768,000			
Office Equipment	580				651,171	19,535	631,636
ID Card Printers		5	11,069	55,345			
Filing Cabinets		64	600	38,400			
Phones - single line		64	200	12,800			
Calculator		64	20	1,280			
Copier, Scanner, Printer		4	7,500	30,000			
Side Chairs for reception, and guest chairs		102	315	32,130			
Chairs		64	600	38,400			
Focus Projectors and Screens		7	1,088	7,616			
MVE System Furniture		64	6,800	435,200			
Other Equipment	590				653,440	32,672	620,768
Weapon (Two per agent)		44	1,400	61,600			
Handheld Radios ($6,000) and Car Radios ($5,000) (Interoperable Systems)		44	11,000	484,000			
Ballistic Vest		44	1,200	52,800			
Mace/camera/other equipment		44	110	4,840			
Uniforms/ Jackets, etc.		52	500	26,000			
Duty Belt/ Duty Gear		44	550	24,200			
Miscellaneous	740	64	150	9,600	9,600	9,600	-
Total Expense and Equipment			**277,425**		**4,357,664**	**1,959,345**	**2,398,319**

NOTE: LEASING EXPENSES WOULD COME OUT OF HB 13 AND ARE NOT CALCULATED IN THIS REQUEST				
FY'23 Initial Year (includes one-time costs)	**PS**	**3,258,536**	1,851,976	
	E&E	**4,357,664**	fringe benefits	
	Total	**7,616,200**		9,468,176
FY'24 and Ongoing Years (Excluding one-times)	**PS**	**3,356,292**		
	E&E	**1,959,345**	1,884,969	
	Total	**5,315,637**		7,200,606

Retail Fees - Estimated

	As of 12-01-2020 Colorado No. of Licenses	Missouri Projected No.	Application Fee	FY'23 Total Revenue	FY'24 Total Revenue	FY'25 Total Revenue
Cannabis Retail Facility	604	637	$ 2,500	$ -	1,328,023	1,593,628
Cannabis Cultivation Facility	712	751	$ 2,500	$ -	1,565,484	1,878,581
Cannabis Manufacturing Facility	288	304	$ 2,500	$ -	633,229	759,875
Cannabis Hospitality Facility	-	10	$ 1,000	$ -	8,333	10,000
Cannabis Testing Facility	12	13	$ 1,000	$ -	10,554	12,665
Delivery	10	11	$ 1,000	$ -	8,795	10,554
Transportation	10	11	$ 500	$ -	4,397	5,277
	1,616	1,715				
Occupational Licenses	41,564	43,866	$ 100	$ -	3,655,493.15	4,386,591.78
				$ -	7,214,309	8,657,171
Administrative Service Fees		Estimate 10%				
Transfer of Ownership		172	$ 1,000	$ -	-	171,550
Change of Ownership		172	$ 800	$ -	-	137,240
Location Change		124	$ 500	$ -	-	62,000
Modification of Premise		124	$ 100	$ -	-	12,400
Total Licensing Fee and Other Fees				**$ -**	**7,214,309**	**9,040,361**

	Colorado Sales Tax Reve	Missouri Est. Revenue	FY'23	FY'24	FY'25
Colorado has a 15% Sales Tax Rate Missouri will impose 7.5%	226,211,275	119,369,709	$ -	89,527,282	119,369,709

Colorado Population	5,845,530
Missouri Population	6,169,270
Difference	323,740
	6%

* Based on a 10% Turnover Rate, I calculate that every year there will be an approximate 10% of changing business situations, and turnover of employees.

The Missouri State Highway Patrol provided the following impact and concerns:

There are approximately 32,327 records in the Traffic Arrest System (TAS) pertaining to arrests completed by the Missouri State Highway Patrol that could possibly meet the requirements of this proposed constitutional amendment. These are arrest records with or without a court conviction with an NCIC modifier of 60-64 that relate to marijuana offenses. However, due to the uncertain nature of this proposal to amend Missouri's Constitution, the Patrol Records Division (PRD) has no true way to determine the actual impact associated with such a proposal. If PRD is required to simply complete a mass expungement of all 32,327 records without processing individual court orders, then this could probably be completed by the Criminal Justice Information Services Division (CJIS) programming the TAS. However, if PRD is required to process 32,327 court orders for this endeavor, then the division will require 9 FTE to process the court orders.

1 full-time employee (FTE) = 1,864 hours (average work hours per year) x 60 minutes per hour = 111,840 minutes per year.

30 minutes = estimate of the amount of time per petition to log, process, research, review, and expunge the information/record when the order is received.

1 FTE can process 3,728 expungements per year = 111,840 / 30.

32,327 / 3,728 = 9 FTEs

The approximate cost for 9 FTEs would be $477,000 including fringe benefits.

The fiscal impact would also include the cost associated with replacing all but 2 of the Patrol's canines. The Patrol's canines are currently trained using cannabis/marijuana as one of four drugs they are to alert to. The purchase and initial training for a canine is approximately $25,000. The overall cost to purchase and train the current canine program would be approximately $175,000 ($25,000 X 7). The time to train these canines could take up to three years. Not only will there be a financial impact to the Patrol, there will also be an impact to the services provided to other law enforcement agencies until the unit reaches full capacity.

In addition to the fiscal impact, the following are the Patrol's concerns based on what other states have reported:

In 2009, Colorado traffic fatalities involving drivers testing positive for marijuana represented 9% of the total traffic fatalities. Recreational marijuana use was legalized in 2012. By 2019, that number more than doubled to 21%.

Since recreational marijuana was legalized in 2013, Colorado traffic deaths in which drivers tested positive for marijuana increased 135% while all Colorado traffic deaths increased 24%.

Marijuana-related deaths when a driver tested positive for marijuana more than doubled from 55 deaths in 2013 to 129 deaths in 2019.

The yearly number of marijuana related hospitalizations increased 101% after the legalization of marijuana, (2009-2017).

Colorado's youth for 2020 marijuana use was 43% higher than the national average.

The average THC levels in marijuana has increased significantly over the years: 1969-0.8%, 1995-4%, 2013-13%, 2017-20+%, Oil, 1995-13%, 2013-52%, highest plant 38%, highest oil 95%+.

Medical marijuana has been legal in the state of Colorado since 2000. On November 12, 2012, the state of Colorado passed Amendment 64, which legalized private use of marijuana. Per the Colorado State Patrol's driving under the influence statistics, marijuana DUI citations increased 25.5% from 2014 to 2018 and marijuana and alcohol citations increased 112% in the same time range. As marijuana becomes legalized, its use increases.

The three years after Colorado legalized marijuana for recreational use (2013-2015), its use increased in youth ages 12-17, by 12%, in young adults aged 18-25 by 16%, and adults 26 and older by 71%. By removing the recommended acceptable ages of use, zoning regulations, packaging, and advertising of cannabis/marijuana, the risk of use and abuse of marijuana by the youth of Missouri is substantially increased. This category of Missourians, who recent studies have shown significant long-term cognitive impairment when marijuana is ingested during the developmental years, would be affected.

In Missouri, medical marijuana was legalized by Amendment 2 and took effect December 2018. As of July 9, 2020, 18 states and Washington D.C. have legalized recreational marijuana and 37 states have legalized medical marijuana. In a 2013-2014 National Highway Traffic Safety Administration (NHTSA) roadside survey, 20% of the nighttime and weekend drivers tested positive for drugs. Interestingly, the number of daytime drugged drivers was approximately the same amount as night and weekend drugged drivers. A roadside study in Colorado and Washington, the first two states to legalize marijuana for recreational use, showed the primary increase of marijuana users happened to their daytime drivers. The percent of drivers that tested positive for marijuana during the day went from 8%, before recreational marijuana sales, to 23%, 6-12 months after marijuana was legalized. There was a 48% increase in weekend nighttime drivers testing positive for THC or 11-OH-THC (an active metabolite of THC) from 2007 to 2014.

Montana legalized medical marijuana in 2004 and from 2007-2010, the presence of marijuana in DUI suspects increased over 100%. Also, the number of DUI suspects who tested positive for alcohol and marijuana increased by over 180%.

This has Department of Health and Senior Services (DHSS) being the agency that enforces it. The concern is that DHSS has no police powers which would inhibit enforcement efforts.

This initiative petition will remove cannabis/marijuana from Missouri Revised Statutes and creating conflict with both several Federal and State laws, such as the use or possession of a firearm, and could conflict and violate federal law. This initiative petition does not support the Gun Control Act (GCA), codified at 18 U.S.C. § 922.

This proposed language in Section 6(7) only applies to Missouri's courts since the central repository is not noted in the petition, therefore, there would be no CJIS impact. However, if the language was modified to include the central repository there would be a technical impact on CJIS to remove any offenses identified in the proposal including FBI records.

The petition process is not defined and the proposal does not identify the agencies that are to expunge the records. Plus, it does not identify if expunge means to destroy or close the record.

The authority to submit fingerprints to the FBI for a federal fingerprint based criminal record check is not authorized though the Initiative Petition process. Federal fingerprint based criminal record checks authorized under P.L. 92-544 can only be approved under a state statute that has gone through the full legislative process.

As the Patrol has officers assigned to federal task forces that may be involved in a federal drug operation, there are concerns over potential civil litigation resulting from these types of operations, as marijuana is still classified as a Schedule I controlled substance, and illegal under federal law.
The Patrol operates in accordance with the Drug-Free Workplace Act of 1988, which requires a drug testing program. This program tests potential employees as well as random testing for incumbent employees in enforcement, and drug sensitive areas.

Noted in Section 1.7 (1) (d), this provides good protection for employers. The Patrol believes this needs to be added to Section 2 of the initiative petition as well.

Another concern is the inability to properly train officers as laws have not yet been established. Further training is currently needed on medical marijuana laws, and more training will need to be established if this passes. Once recreational use passes, other intoxicating/impairing substances may be targeted for legalization/decriminalization as they have in many other states. One example is Oregon which has decriminalized psilocybin, cocaine, heroin, oxycodone, methamphetamine, and other drugs.

If passed, this petition will conflict with federal cannabis/marijuana laws and could cause significant conflict with several Federal and State laws, such as the use or possession of a firearm. Cannabis/marijuana causes impairment and is not a suitable drug to be used in various safety sensitive positions in the workforce, therefore strong language protecting employers is suggested. The workforce which could be affected would include any position where safety is a must, such as operating a motor vehicle, operating heavy machinery, and all aspects of public safety.

There is no language as to where the cannabis/marijuana may remain, such as any cannabis/marijuana purchased or grown in Missouri must remain in Missouri. While this is a federal offense, a lack of this type of language may allow Missouri cannabis/marijuana facilities to distribute cannabis/marijuana outside of the state or allow other states to distribute their cannabis/marijuana in Missouri. A lack of such language could lead to Missouri being a distribution state for states where cannabis/marijuana remains illegal.

For further consideration, as the legalization or decriminalization of cannabis/marijuana has increased in the past several years, so have the crashes and deaths on highways. Blood screenings on drivers in serious injury and fatal crashes have shown a staggering increase in drivers who have cannabis/marijuana within their system at the time of the crash.

Overall cost to the Patrol:
9 full-time employees = $477,000
7 new canines for the canine program = $175,000
Total cost = $652,000

Officials from the **Department of Social Services** indicated this has no fiscal impact on their department.

Officials from the **Governor's office** indicated this proposal relating to cannabis should not fiscally impact their office.

Officials from the **House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated language with respect to the expungement of marijuana convictions within the initiative petition would prevent enforcement of 49 CFR § Parts 391 and 392. These federal regulations relate to the possession of and use of controlled substances by commercial motor vehicle drivers.

The expungement language, found in the section entitled *Public Safety*, Section 2.6(7), would keep the marijuana-related convictions of commercial motor vehicle (CMV) drivers from appearing in their criminal records. This would force Missouri agencies to forgo enforcement of Federal Motor Carrier Safety Regulations (FMCSRs) pertaining to the use of disqualified drivers.

If prior marijuana convictions are wholly expunged from criminal records, the records of CMV drivers who had been convicted of marijuana-related offences would not retain this information, yet the driver is technically not qualified to operate a CMV. Further, neither the Missouri Department of Transportation (MoDOT) Motor Carrier Services nor other motor carrier enforcement agencies could know of the convictions when making enforcement determinations.

In order to receive the Motor Carrier Safety Assistance Program (MCSAP) funding, Missouri must enforce the FMCSRs in whole. The expungement of marijuana convictions would prevent enforcement of 49 CFR § Parts 391 and 392.

Per 49 CFR § 350.215 – The penalty imposed upon states found to be in noncompliance can be as harsh as withholding all MCSAP funding; or
Withholding up to 5 percent of MCSAP funds during the fiscal year that the FMCSA notifies the State of its noncompliance;
Up to 10 percent of MCSAP funds for the first full fiscal year of noncompliance;
Up to 25 percent of MCSAP funds for the second full fiscal year of noncompliance; and
Not more than 50 percent of MCSAP funds for the third and any subsequent full fiscal year.

Missouri's share of MCSAP funds in fiscal year (FY) 2021 are $7,060,488.

Officials from the **Office of Administration** indicated this proposal would legalize recreational marijuana for any Missouri resident over the age of 21, beginning January 1, 2023.

Article XIV, Section 2.1 specifies that this section is not intended to supplant the medical marijuana market.

Article XIV, Section 1.3(1)(h) and (15-17) are removed which would eliminate the DHSS-imposed facility license caps likely resulting in an increase in TSR from additional facilities applying for licensure. **Article XIV, Section 1.3(12)** would reduce the annual cultivation fee from $100 per year to $25 per year. **Article XIV, Section 1.4(2)(a)** would limit the amount of funds to be kept by the Department of Health and Senior Services (DHSS) for the administration of the medical marijuana program to 20% of net deposits into the Missouri Veterans' Health and Care Fund. The language is unclear as to what constitutes net deposits. Budget & Planning (B&P) defers to DHSS for an impact on these provisions.

Article XIV, Section 2.4(7-9) allows the Department of Public Safety (DPS) to charge an application and annual renewal fee of up to $2,500 per application/annual renewal for cultivation, manufacturing, and retail facility licenses. Hospitality facilities are to be charged a certification and annual renewal fee of up to $1,000. These certifications grant these facilities the permission to allow individuals to consume marijuana on business premises while also allowing the sale of food and beverages, including alcohol. Application and renewal fees shall be adjusted each year based on the rate of inflation. Additionally, for rejected applications, there may be a re-submittal fee of up to $500 if the business decides to reapply. **Article XIV, Section 2.5(1)** specifies that if application and renewal fees are insufficient for DPS to administer the program, they must request additional funding through a cash operating transfer from the Missouri Economic Recovery and Growth Fund created in **Section 2.5(3)**. These funds are to be repaid as provided by law.

DPS is permitted to allow business applicants to apply for a reduced application or renewal fee if the business meets certain qualifying factors including being located in areas with high unemployment; areas designated as Economic Disadvantaged Zones; being owned or operated by an entity denied a medical marijuana license based on application score; or businesses owned by minorities, veterans, and marginalized groups.

Licensed medical marijuana facilities may apply for recreational licensure at their current location of business.

B&P notes that medical marijuana facilities are charged the following fees under Article XIV, however the annual fees have been increased by DHSS since inception as permitted:

- medical marijuana cultivation facility: $5,000 application fee and $25,000 annual fee ($25,933.05 for FY 22)
- medical marijuana dispensary facility: $3,000 application fee and $10,000 annual fee ($10,373.22 for FY 22)
- medical marijuana infused-products manufacturing facility: $3,000 application fee and $10,000 annual fee ($10,373.22 for FY 22).

B&P notes that some facilities may choose to be licensed under Article XIV, Section 2, rather than under the medical marijuana provisions in Article XIV Section 1 due to the lower application and renewal fees. However, **Article XIV, Section 2.3(2)(s)** requires that facilities with medical marijuana contracts must require an adequate supply of medical marijuana, including basing the supply levels on historical sales. Supply contracts for medicinal use are to take precedence over supply contracts for recreational use. It is unclear how this may affect medical marijuana supply and sales, but this could reduce the amount of revenue to the "Missouri Veterans' Health and Care Fund", which receives monies from medical marijuana licensing and renewal fees. B&P is unable to determine the amount of fee revenues that may be lost due to this provision; however, in FY 2021 DHSS collected $13,971,974 in licensing fees. B&P defers to DPS and DHSS for further discussion on the application and licensing fees.

DPS is required to promulgate rules and issue licenses prior to June 30, 2023. If DPS does not meet this deadline, the rules and regulations for the licensing of alcoholic beverage manufacturing and sales will apply to recreational marijuana facilities. Further, local governments are to develop and adopt ordinances and policies prior to June 30, 2023. If local governments do not meet this deadline, the rules and regulations for the licensing of alcoholic beverage manufacturing and sales will apply to recreational marijuana facilities.

Article XIV, Section 2.5(2)(a) would levy a 7.5% sales tax on retail sales of marijuana. DOR may retain up to 2% of collections for collection costs. All monies from the sales tax shall be deposited into the newly created "Missouri Economic Recovery and Growth Fund." **Subdivision (6)** would prohibit any other taxes from being levied on recreational marijuana. B&P notes that this would prohibit the Conservation sales tax (0.125%) under Article IV, Section 43(a); the Parks, Soil, and Water sales taxes (0.1% total) under Article IV, Section 47(a); and the School District Trust fund sales tax (1.0%) under Section

144.701, RSMo. **Subdivision (8)** would allow local governments to impose a sales tax in an amount up to the rate such jurisdiction imposes for alcohol or other retail sales tax, whichever is higher. B&P notes that for calendar year 2021, the average local sales tax rate is 4.03%.

Therefore, under this petition, the state tax rate for recreational marijuana will be the 7.5%. B&P notes that the total tax rate (excise and sales tax) on medical marijuana is currently 8.225%. Therefore, it is possible that some or all medical marijuana patients may opt to purchase recreational marijuana instead. This could result in reduced revenues to the Missouri Veterans' Health and Care Fund (4.0% excise tax); Conservation (0.125% sales tax); Parks, Soil, and Water (0.1% total sales tax); and education (1.0% sales tax). However, B&P notes that some of the reduced revenues from the other state funds would instead shift to the newly created "Missouri Economic Recovery and Growth Fund."

B&P notes that this petition does not grant DOR rule making authority and it does not contain any provisions regulating when retailers must submit recreational marijuana sales taxes to DOR. For the purpose of this fiscal note, B&P will assume that such retailers will remit sales tax collections to DOR based on existing statute and DOR regulations. However, it is possible that retailers could remit taxes on a different schedule. B&P defers to DOR for more information.

Article XIV, Section 2.5(3) creates the "Missouri Economic Recovery and Growth Fund". Monies in the fund shall be used for:

- One-third of collections – distributed to state and local jurisdictions for infrastructure improvement.
- One third of collections – grants to state agencies, educational institutions, and not-for-profit organizations for drug treatment and support, legal assistance for expungement, and tetrahydrocannabinol (THC) research.
- One-third of collections – grants for non-profit organizations for business loans to marginalized populations and cannabis industry training for current and former inmates.

<u>Revenue Estimates</u>

B&P notes that while this proposal would begin January 1, 2023 sales tax collections would not begin until at least January 1, 2024 or later due to the application and approval process timelines set forth in Section 2.4(12). Therefore, B&P will reflect sales tax collections as beginning in early calendar year 2024 (late FY 2024).

Based on research, B&P was able to find forecasts for the U.S. legal market for cannabis. According to such forecasts, the U.S. market for legal marijuana will be approximately $32.1 billion in calendar year 2023 and grow up to $47.3 billion by calendar year 2027. Based on information from the Substance Abuse and Mental Health Services

Administration[1], from 2018-2019 approximately 15.03% of Missouri residents and 16.98% of all U.S. residents surveyed have used marijuana within the last year. Using the populations of Missouri residents compared to the U.S. population, B&P estimates that the market for legal marijuana in Missouri is 1.66% of the total U.S. market. Therefore, B&P estimates that the Missouri market for legal marijuana would be approximately $534.1 million in calendar year 2023 ($32.1 billion x 1.66%) and up to $787.1 million by calendar year 2027 ($47.3 billion x 1.66%).

Based on further research[2], B&P estimates that there could be between 61,700 to 122,500 medical marijuana users in Missouri. Using these estimates, and the estimates shown above, B&P estimates that the Missouri market for medical marijuana would be between 0.14% and 0.29% of the total U.S. Market for legal marijuana. Therefore, B&P estimates that the total Missouri market for recreational marijuana would be 1.38% to 1.52% of the total U.S. market. Table 1 shows the estimated U.S. and Missouri markets for marijuana.

Table 1: Estimated Marijuana Market Size for the U.S. and Missouri

Calendar Year	Estimated U.S. Market Size	Estimated MO Market Size	Estimated MO Medical Market Size	Estimated MO Recreational Market Size
2024	$35,900,000,000	$597,379,769	$85,613,340	$511,766,429
2025	$39,700,000,000	$660,612,168	$102,341,724	$558,270,445
2026	$43,500,000,000	$723,844,567	$119,070,107	$604,774,460
2027	$47,300,000,000	$787,076,966	$135,798,491	$651,278,476

B&P notes that this petition could result in the shift of medical marijuana sales to recreational sales. For the purpose of this fiscal note, B&P will show the estimated impact as if all medical sales shift to recreational versus no medical sales shift to recreational.

Therefore, B&P estimates that this proposal may increase state revenues by $37,761,785 to $38,382,482 in calendar year 2024. By calendar year 2027, B&P estimates that this proposal may increase state revenues by $47,861,347 to $48,845,886. This proposal could also increase local revenues by $20,624,187 in calendar year 2024 and $26,246,523 by calendar year 2027. Table 2 shows the estimated revenues generated by calendar year.

[1] https://www.samhsa.gov/data/report/comparison-2015-2016-and-2016-2017-nsduh-population-percentages-50-states-and-district

[2] https://www.stltoday.com/news/local/metro/plenty-of-pot-study-says-missouri-will-license-twice-as/article_e94469b0-e1c6-5893-bc2e-e1d7b24f4a73.html

Table 2: Sales Tax Collections by Calendar Year

Fund	CY 2024		CY 2025	
State Funds	All Medical Shift	No Medical Shift	All Medical Shift	No Medical Shift
MO Econ Recovery and Growth Fund (7.5%)	$44,803,483	$38,382,482	$49,545,913	$41,870,283
General Revenue (3.0% tax) - Medical Sales Loss	($2,568,400)	$0	($3,070,252)	$0
Education (1.0% tax) - Medical Sales Loss	($856,133)	$0	($1,023,417)	$0
Conservation (0.125% tax) - Medical Sales Loss	($107,017)	$0	($127,927)	$0
Parks, soil, water (0.1% tax) - Medical Sales Loss	($85,613)	$0	($102,342)	$0
Veterans' Health and Care Fund (4% tax) - Medical Sales Loss	($3,424,534)	$0	($4,093,669)	$0
Total State Revenues	**$37,761,785**	**$38,382,482**	**$41,128,306**	**$41,870,283**
Local Funds				
Local Revenue (4.03% avg local tax rate)	$20,624,187	$20,624,187	$22,498,299	$22,498,299

Table 2: Sales Tax Collections by Calendar Year (cont.)

Fund	CY 2026		CY 2027	
State Funds	All Medical Shift	No Medical Shift	All Medical Shift	No Medical Shift
MO Econ Recovery and Growth Fund (7.5%)	$54,288,343	$45,358,085	$59,030,772	$48,845,886
General Revenue (3.0% tax) - Medical Sales Loss	($3,572,103)	$0	($4,073,955)	$0
Education (1.0% tax) - Medical Sales Loss	($1,190,701)	$0	($1,357,985)	$0
Conservation (0.125% tax) - Medical Sales Loss	($148,838)	$0	($169,748)	$0
Parks, soil, water (0.1% tax) - Medical Sales Loss	($119,070)	$0	($135,798)	$0
Veterans' Health and Care Fund (4% tax) - Medical Sales Loss	($4,762,804)	$0	($5,431,940)	$0
Total State Revenues	**$44,494,826**	**$45,358,085**	**$47,861,347**	**$48,845,886**
Local Funds				
Local Revenue (4.03% avg local tax rate)	$24,372,411	$24,372,411	$26,246,523	$26,246,523

However, B&P notes that if voter approved in November 2022, this proposal would not be enacted until January 1, 2023 and sales tax collections would not begin until at least January 2024 (halfway through FY 2024). Based on historical sales tax collection data, B&P adjusts calendar year collections 50% into the first fiscal year and 50% into the second fiscal year. Therefore, B&P estimates that this proposal will increase state revenues by $18,880,893 to $19,191,241 in FY 2024. BY FY 2028, this proposal may increase state revenues by $47,861,347 to $48,845,886. This proposal may also increase local revenues by $10,312,094 in FY 2024 and up to $26,246,523 by FY 2028. Table 3 shows the estimated revenue generated by fiscal year.

Table 3: Sales Tax Collections by Fiscal Year

Fund	FY 2024		FY 2025		FY 2026	
	All Medical Shift	No Medical Shift	All Medical Shift	No Medical Shift	All Medical Shift	No Medical Shift
MO Econ Recovery and Growth Fund	$22,401,741	$19,191,241	$47,174,698	$40,126,383	$51,917,128	$43,614,184
General Revenue	($1,284,200)	$0	($2,819,326)	$0	($3,321,177)	$0
Education	($428,067)	$0	($939,775)	$0	($1,107,059)	$0
Conservation	($53,508)	$0	($117,472)	$0	($138,382)	$0
Parks, soil, water	($42,807)	$0	($93,978)	$0	($110,706)	$0
Veterans' Health and Care Fund	($1,712,267)	$0	($3,759,101)	$0	($4,428,237)	$0
Total State Revenues	$18,880,893	$19,191,241	$39,445,046	$40,126,383	$42,811,566	$43,614,184
Local Revenue	$10,312,094	$10,312,094	$21,561,243	$21,561,243	$23,435,355	$23,435,355

Table 3: Sales Tax Collections by Fiscal Year (cont.)

Fund	FY 2027		FY 2028	
	All Medical Shift	No Medical Shift	All Medical Shift	No Medical Shift
MO Econ Recovery and Growth Fund	$56,659,558	$47,101,985	$59,030,772	$48,845,886
General Revenue	($3,823,029)	$0	($4,073,955)	$0
Education	($1,274,343)	$0	($1,357,985)	$0
Conservation	($159,293)	$0	($169,748)	$0
Parks, soil, water	($127,434)	$0	($135,798)	$0
Veterans' Health and Care Fund	($5,097,372)	$0	($5,431,940)	$0
Total State Revenues	$46,178,086	$47,101,985	$47,861,347	$48,845,886
Local Revenue	$25,309,467	$25,309,467	$26,246,523	$26,246,523

Article XIV Section 1.3(2)(h) requires that all medical marijuana employees, owners, officers, and other individuals affiliated with the business to undergo a fingerprint-based criminal background check. The removal of the license caps on medical marijuana facilities may increase the number of individuals needing these checks. Further, **Article XIV Section 2.4(10)** requires that all recreational marijuana employees, owners, officers, and other individuals affiliated with the business undergo a fingerprint-based criminal background check. The Missouri State Highway Patrol (MSHP) Criminal Justice Information Services (CJIS) Division processes all state and federal fingerprint background checks. The CJIS has the following fee structure for background checks:

State fee:	$20.00
Vendor Fee:	$8.50
FBI fee:	$13.25
Total fees:	$41.75

The state retains the $20 state fee and $2 of the FBI fee ($22 total retained by the state). All fees collected will be deposited in the MSHP Criminal Records System Fund. MSHP verified that over 90% of background checks are conducted using third party vendor, IDEMIA, who charges the applicant an $8.50 fee which is kept by IDEMIA. The applicant pays the full fee of $41.75 to the vendor and MSHP then collects the full state and FBI fees ($33.25) from the vendor each month. The FBI bills MSHP monthly, and MSHP pays the FBI their portion of the FBI fee out of the MSHP Criminal Records System Fund. B&P defers to MSHP for further discussion on this impact.

If a new crime is created or removed or there is an increase or decrease in class of crime, any portion of any associated penalty fees/fines that go to the state may impact TSR. **Article XIV, Section 2.6(4)** allows adults over age 21 to possess at any one time the following amounts of marijuana:

- up to eight ounces of dried unprocessed flower;
- up to 28 grams of concentrated resin or extract; and
- up to 4,000 milligrams of THC in cannabis-infused products.

Pursuant to Section 579.015, RSMo, a first time offense of possession of ten grams or less of marijuana is a Class D misdemeanor subject to a fine up to $500. Any subsequent offenses, as well as any offenses of possession of marijuana of more than ten grams but 35 grams or less, are Class A misdemeanors subject to a fine of up to $2,000 and up to one year in jail. It is unknown how many violations and associated fines would be reduced by passage of this amendment. Therefore, this proposal could decrease total state revenue by an unknown amount beginning January 1, 2023.

Article XIV, Section 2.7(3) permits local governments to require recreational marijuana businesses to obtain business licensure under local ordinances but prohibits any additional fee or special license specific to these types of businesses. **Article XIV, Section 2.7(4)** allows local governments to establish civil penalties for violation of an ordinance or regulation governing medical marijuana facilities so long as these penalties are not greater than those imposed on alcoholic beverage manufacturers or sellers. B&P notes that it would appear that subdivision 4 should reference recreational marijuana businesses rather than medical marijuana. These provisions may impact local revenues by an unknown amount.

Officials from the **Office of State Courts Administrator** indicated the initiative petition proposing to Amend Article XIV establishes and modifies provisions relating to the legalization of marijuana for adult use.

The average of all marijuana related charge codes from 2015 to 2019 for Circuit case types is 2,457 per year. The average of all marijuana related charge codes from 2015 to 2019 for Associate case types is 8,153. They are unable to determine what number of these charges were for someone over the age of twenty-one.

The following Criminal Court Costs would be affected by this proposed legislation:

	Criminal Court Costs		
Felony Case Costs	**Amount of Cost**		**Disburse to State/County**
Basic Civil Legal Services Fund surcharge	$10.00		State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$45.00		State of Missouri - General Revenue $36, County $9
County Fee	$75.00		County
Court Automation Fund Fee	$7.00		State of Missouri -Statewide Court Automation Fund
Court Reporter fee (All Circuit Division Cases)	$15.00		State of Missouri - General Revenue
Crime Victims' Compensation Fund surcharge	$7.50		State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$30.00		State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00		State of Missouri - Head Injury Fund
Independent Living Center Fund surcharge	$1.00		State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00		State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards & Training (POST) Commission surcharge	$1.00		State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00		Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$5.00		State of Missouri - Prosecuting Attorney Training Fund
Sheriffs' Fee	$75.00		County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00		Sheriffs' Retirement Fund
Spinal Cord Injury Fund surcharge	$2.00		State of Missouri - Spinal Cord Injury Fund
Total	$283.50		
Misdemeanor Case Costs			

Basic Civil Legal Services Fund surcharge	$8.00		State of Missouri - Basic Civil Legal Services Fund
Clerk Fee	$15.00		$12 State of Missouri / $3 County
County Fee	$25.00		County
Court Automation Fund Fee	$7.00		State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50		State of Missouri - Crime Victims' Compensation Fund
DNA Profiling Analysis Fund surcharge	$15.00		State of Missouri - DNA Profiling Analysis Fund
Brain Injury Fund surcharge	$2.00		State of Missouri - Brain Injury Fund
Independent Living Center Fund surcharge	$1.00		State of Missouri - Independent Living Center Fund
Motorcycle Safety Trust Fund surcharge	$1.00		State of Missouri - Motorcycle Safety Trust Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00		State of Missouri - Peace Officer Standards & Training Fund
Prosecuting Attorney and Circuit Attorneys' Retirement Fund	$4.00		Pros. Attorney Retirement Fund
Prosecuting Attorney Training Fund surcharge	$5.00		$0.50 State of Missouri / $0.50 County
Sheriffs' fee	$10.00		County
Sheriffs' Retirement Fund surcharge (except 21st Circuit)	$3.00		Sheriffs' Retirement fund
Spinal Cord Injury Fund Surcharge	$2.00		State of Missouri - Spinal Cord Injury Fund
Total	**$106.50**		
Municipal Case (Filed in Associate Division) Costs			
Clerk Fee	$15.00		$12 State of Missouri / $3 County
Court Automation Fund Fee	$7.00		State of Missouri - Court Automation Fund
Crime Victims' Compensation Fund surcharge	$7.50		State of Missouri - Crime Victims' Compensation Fund
Peace Officer Standards and Training (POST) Commission surcharge	$1.00		State of Missouri - Peace Officer Standards & Training Fund

Sheriffs' Retirement Fund surcharge	$3.00		Sheriffs' Retirement Fund
Total	**$33.50**		
Criminal Costs Not Included Above			
Drug Testing by a State Lab	$150.00		State of Missouri
Drug Testing by a Private Lab	Actual Costs		County Reimbursement
Law Enforcement Arrest Costs:			
Highway Patrol			Amt. Approved by the Court
Local (County)			Amt. Approved by the Court
Municipal			Amt. Approved by the Court

The decrease in the court fees, depending on the number of cases, will result in an unknown loss to the courts and to the specific funds.

They also assume there will be an unknown decrease in caseload for the courts because the courts will no longer process these cases; however, at this time they are unable to calculate the decrease.

Any significant increase or decrease will be reflected in future budget requests.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions

certified for the ballot. In FY 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will reduce the number of illegal possession of a controlled substance cases in which State Public Defender provides legal representation. The exact fiscal impact of that reduction is unknown. This initiative petition may provide funding for State Public Defender under Section 5 (3)(b) (iii) as a legal organization that provides free representation on drug related charges. Again, the exact fiscal impact of that reduction is unknown.

Officials from the **State Treasurer's office** indicated there is a tax and a variety of fees imposed in this petition. Once in operation, marijuana businesses have had difficulties obtaining and maintaining bank accounts due Federal law and regulations. Their office and the Department of Revenue have explored options to handle large amounts of cash from licensed marijuana businesses as the Department of Revenue may see many of these taxes paid in cash. Changes in security measures and collection points may be needed as the Department of Revenue, the Department of Health and Senior Services, and the Department of Labor and Industrial Relations do not currently receive large amounts of cash. The changes in this initiative petition may increase the potential amount of receipts in cash. They are unable to determine the fiscal impact to their office.

Officials from **Clay County** indicated they estimate the following as a result of this petition:

Costs:
- ~$30,000 in Sheriff Road Patrol OT for DWIs
- ~$5,000 in extra Sheriff fuel use to patrol
- ~$35,000 annually in costs

Savings/Revenues:
- ~$25,000 in the 1/3rd of the 7.5% tax to be dedicated to infrastructure
- ~$150,000 in sales taxes
- ~$25,000 in property taxes
- ~$1,000 in liquor-equivalent licenses

- ~$5,000 in planning & zoning permits
- ~206,000 annually in savings/new revenues

Net annual savings of ~$171,000.

Officials from **Greene County** indicated there is anticipated costs to their county for this initiative petition per the following information concerning this initiative petition, https://static1.squarespace.com/static/5541a76ae4b0175cee8827d0/t/580684e5ff7c50adea98399e/1476822252561/Letter+to+CA+from+Denver+DA.jpgI provided by their County Prosecutor, Dan Patterson. There may also be sales tax attained for their county based on the authority given for taxation and funding to impose a retail sales tax. Since it is a may, there is no certainty to ascertain if any tax dollars attained will be collected, and if they are collected any data to suggest an amount of actual sales that will take place to base the estimation on.

To help better fully understand the fiscal impact would require a very detailed study to give the best opportunity to understand the impact to law enforcement, prosecutors and the circuit courts within the proposed changes of this initiative petition, which the linked letter demonstrates occurred in Colorado after similar legislation passed. In addition, it would also require a very reliable method of measurement to predict a dependable sales estimate of this product and the impact the sales would have on additional local sales tax receipts for a local entity. Unfortunately neither of these are currently feasible due to the short timeline given to respond.

County Prosecutor, Dan Patterson provided the following information:

DenverDA
Mitchell R. Morrissey, District Attorney - Second Judicial District
201 W. Colfax Avenue, Dept. 801, Denver, CO 80202
Bus. Phone: 720-913-900
Fax: 720-913-903

October 12, 2016

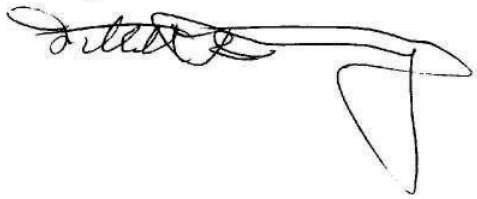
No on 64 Campaign and SAM Action

California voters are being told that they will see the crime rate go down if they vote to legalize marijuana commercially; this has not been the case in the state of Colorado or the city of Denver. Since the legalization of recreational marijuana in Colorado in 2013 traffic related marijuana deaths have increased 48%, marijuana related emergency room visits have increased 49%, and marijuana related calls to the poison center have increased 100%. According to the Colorado Bureau of Investigations in 2015 statewide homicides in Colorado rose 14.7 % over the previous year. Pueblo, Colorado had the highest homicide rate in the state with 11.1 killings per 100,000 residents. Aurora, Colorado's homicide rate more than doubled from 2014. Additionally more places in Colorado were robbed and more thefts occurred, especially cars, as 193,115 motor vehicles were reported stolen, up 27.7 % in 2015 from the previous year. In 2015, sexual assaults rose 10% in Colorado with Denver, Aurora, Lakewood, Westminster and Pueblo all reporting higher numbers as well.

In the city of Denver since the legalization of recreational marijuana the number of crimes in Denver has grown by about 44 %, according to annual figures the city reported to the National Incident Based Reporting System. In 2015 in Denver alone crime rose in every neighborhood in the city. The murder rate hit a decade high, 1059 more cars were broken into, there were 903 more auto thefts, 321 more aggravated assaults and 231 more homes were broken into compared to 2014.

California voters are also being told that legalizing recreational marijuana will free up law enforcement to work on other criminal activities. Again that has not been the case in Denver. Besides the overall increases in crime we have experience, the Denver police department is dealing with a 900% increase in the unlawful cultivation and manufacture of marihuana concentrate, and a 99% increase in the unlawful distribution of marijuana and marijuana concentrate. The quantity of illegal marijuana seized by the Denver police has increased 3,424% on average per case. The volume of marijuana seized per case has increased from an average of 162 pounds to 5724 pounds. In Denver unlawful public consumption of marijuana citations has increased over 300% per year since the legalization of recreational marijuana. The Denver police department is busier enforcing marijuana laws and investigating crimes directly related to marijuana, including murderers, robberies, and home invasions, than any other time in the history of the city.

Sincerely,



Mitchell R. Morrissey
Denver District Attorney

Officials from the **City of Kansas City** indicated this amendment may have a positive fiscal impact on their city, by an increase in tax revenue.

Officials from **Metropolitan Community College** indicated there are too many unknowns to determine the fiscal impact for their college. There is potential for increased operational expenses due to policies and procedures that may need to be addressed and changed. Also a potential need for increased drug testing. However, future opportunities on the educational side may arise.

Officials from the **Missouri Veterans Commission** indicated the following:

Michael L. Parson
Governor

Paul Kirchhoff
Executive Director

MISSOURI VETERANS COMMISSION

205 Jefferson Street, P.O. Drawer 147, Jefferson City, MO 65102-0147
Telephone: (573) 751-3779 www.mvc.dps.mo.gov Fax: (573) 751-6836

September 7, 2021

The Honorable John R. Ashcroft
Secretary of State
600 W. Main Street
Jefferson City, MO 65101

Dear Secretary of State Ashcroft,

Initiative Petition 2022-064 (hereinafter, the Petition) will have a disastrous fiscal impact upon the Missouri Veterans Commission. Under the existing medical marijuana program (Article XIV of the Missouri Constitution), we anticipate receiving $6.8 million dollars in fiscal years 2022 through 2026 from the tax revenues generated from the retail sales of medical marijuana. The Petition makes some changes to that program which would adversely impact the Commission, but its most severe impact to the Commission is in the creation of a non-medical marijuana program (the proposed Article XIV, section 2 to the Missouri Constitution).

The medical marijuana program is predicated on medical need and the physician certification that marijuana is the appropriate treatment for that medical need. Conversely, the non-medical marijuana program has no requirement for medical need or for physician certification. Notwithstanding the assertion in the Petition that the non-medical marijuana program is not intended to supplant the medical marijuana program, we anticipate that is prescisely what will occur should the Petition become law. It is only common sense that those wishing to use marijuana products will forego the inconvenience of establishing medical need and obtaining a physician's certification and avail themselves of the non-medical program should one exist regardless of their reason for wanting to use marijuana products. Therefore, we anticipate a significant reduction in the tax revenues generated by the medical marijuana program, perhaps as high as a 90% reduction, should the Petition become law.

Moreover, given the significantly different distribution of tax revenues provided for under the non-medical marijuana program, we cannot anticipate tax revenues generated under the non-medical program to defray the reduction we would experience under the medical marijuana program. Specifically, the medical marijuana program establishes a 4% tax on all retail sales of medical marijuana and allocates to the Commission all of those proceeds minus 5% to the Department of Revenue and an amount to the Department of Health and Senior Services necessary to defray their costs in regulating the program. The Petition changes this arrangement to cap the amount which may be retained by the Department of Health and Senior Services at twenty percent. Further, the Petition proposes a significant change to paragraph 3(12) to dramtically expand the rights of patients to cultivate their own marijuana which is not subject to

taxation. Therefore, should the Petition become law, we anticipate a significant decrease in tax revenues allocated to the Commission through the Veterans Health and Care Fund.

Conversely, the non-medical marijuana program establishes a 7 ½ % tax on all retail sales of non-medical marijuana and allocates those proceeds to the "Missouri Economic Recovery and Growth Fund" minus 2% for the Department of Revenue. The monies in the "Missouri Economic Recovery and Growth Fund" are available to private and state agencies, but for purposes in which the Commission does not engage. Therefore, the Commission would not receive any tax revenues under the non-medical marijuana program and would see a disastrous reduction in the revenues it receives under the medical marijuana program.

In closing, Initiative Petition 2022-064 will adversely impact the ability of the Missouri Veterans Commission to serve the veterans of Missouri for the reasons set forth above. If I can be of any further assistance on this issue, please contact me at (573) 522-4224 at your convenience.

Sincerely,



Scotty L. Allen
General Counsel
Missouri Veterans Commission

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University, Missouri Office of Prosecution Services,** the **Kansas City Board of Police Commissioners,** and the **Metropolitan Police Department - City of St. Louis.**

Fiscal Note Summary

State governmental entities estimate initial costs of $4 million, annual costs of $7 million, and annual revenues ranging from $26 million to $125 million by 2025. Local governments are estimated to have annual costs of at least $35,000 and annual revenues ranging from $13 million to $21 million by 2025.

MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (22-079)

Subject

Initiative petition from Michael Phoenix regarding a proposed constitutional amendment to Article XV. (Received November 23, 2021)

Date

December 13, 2021

Description

This proposal would amend Article XV of the Missouri Constitution.

The amendment is to be voted on in November 2022.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office,** the **Department of Agriculture,** the **Department of Economic Development,** the **Department of Elementary and Secondary Education,** the **Department of Higher Education and Workforce Development,** the **Department of Health and Senior Services,** the **Department of Commerce and Insurance,** the **Department of Mental Health,** the **Department of Natural Resources,** the **Department of Corrections,** the **Department of Labor and Industrial Relations,** the **Department of Revenue,** the **Department of Public Safety,** the **Department of Social Services,** the **Governor's office,** the **Missouri House of Representatives,** the **Department of Conservation,** the **Department of Transportation,** the **Office of Administration,** the **Office of State Courts Administrator,** the **Missouri Senate,** the **Secretary of State's office,** the **Office of the State Public Defender,** the **State Treasurer's office, Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Greene County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County,** the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kansas City,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, St. Louis Community College, University of Central Missouri, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University,** and the **Missouri Office of Prosecution Services.**

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal could result in increased costs to their office, they expect that they could absorb the increased costs associated with the proposal using existing resources. However, if the enactment of this proposal were to result in a substantial increase in cost, they may be required to request additional appropriations.

Officials from the **Department of Agriculture** indicated this initiative petition has no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated no impact to their department.

Officials from the **Department of Higher Education and Workforce Development** indicated no impact to their department.

Officials from the **Department of Health and Senior Services** indicated:

The total estimated net effect on all state funds is negative $645,512 in fiscal year 2023, negative $717,926 in fiscal year 2024, and negative $725,306 in fiscal year 2025.

The proposed initiative petition would create broad restrictions and requirements directly impacting public health laws and services.

Section 2 of the proposal would establish the right and sovereign autonomous obligation of an individual to self-determine the need for medical interventions regardless of that individual's condition or the presence of a contagion.

Section 3 would entirely prohibit a mandate or enforcement of any type of medical intervention for any reason.

Section 4 would place requirements on how data is used to inform the public health response to contagions, and require the information used to make public health decisions to be made available for audit and be made publicly available.

Section 7 would nullify any federal legislation, regulation, order, or injunctive decree that would be found to infringe the liberties, freedoms, rights, obligations, or privileges established within the proposal.

Section 8 would place financial liability on public entities for violating the rights established within the proposal.

Section 9 would require any entity that has any type of interaction with a public official regarding the requirement, mandate, or enforcement of any medical intervention, policy, or legislative measure, create a full transcript of that interaction (to be submitted to the State Department of Health and be made public).

Section 10 requires reports be created analyzing the credibility of benefits to the people of the state for any publicly funded medical initiative.

Altogether, the proposal would place a significant compliance burden on their department. Sections 2 and 3 would limit their department's ability to intervene when Shiga toxin-producing E. coli, food borne diseases, pertussis, hepatitis A, Typhoid fever, measles, shigellosis, mumps, norovirus, tuberculosis, or other diseases spread in a community. As such, their department would need to restructure and significantly alter how it approaches limiting the spread of these diseases to protect health.

Departmental compliance with Section 4 would require additional resources to ensure all policies meet the standards established by the proposal, that the threshold of data quality exceeds a reasonable speculation of doubt, that all data be made publicly available, and to prepare the data to be audited.

Compliance with Section 7 would require departmental analysis of what current and future federal laws would be nullified under the proposal, determining what powers and services can no longer be utilized due to such nullification, and coordinating with the federal government to communicate what federal laws and requirements will no longer be complied with in Missouri.

Section 8 as well as Section 3, Subsection 2, would create a need for departmental staff who would be capable of ensuring departmental compliance with the proposal to prevent potential actions in court against the department.

Section 9 would directly require their department to receive and make public any transcripts submitted to their department. This section would also require their department to create such transcripts whenever it interacts with a public official.

To meet the requirements of the proposal, their department assumes the need for a new compliance unit to protect the medical liberty of Missourians. The compliance unit would exist within their department director's office to ensure compliance throughout the department. The unit would be led by **one** Regulatory Compliance Manager ($85,053). This position's responsibility would be to lead compliance efforts, communicate with state and federal partners about changes to their department's ability to respond to public health incidents and comply with federal law, and supervise other compliance unit staff.

Five Program Specialists ($54,677) would be needed to liaise with the departmental divisions and programs to ensure compliance at the program level and to directly coordinate with departmental staff. These positions would be directly responsible for working with staff to make changes to program operations to comply with the proposal's

new requirements and to ensure ongoing compliance. These positions would also be responsible for managing their department's receipt of transcripts under Section 9 and making those transcripts public, as well as working with department leadership to ensure that their department creates transcripts when it has pertinent interactions with public officials.

One Research/Data Analyst ($46,651) would be needed to assist with compliance with Section 4 of the proposal. Responsibilities would include working with existing departmental data analysts and epidemiologists to ensure data use meets the standards as set in the proposal, that data is made publicly available when required, and that the data be prepared for audit as required. This position would also be responsible for coordinating with department staff to create reports to comply with Section 10 of the proposal.

The proposed initiative petition gives the autonomous obligation to the individual to self-determine the need for all medical interventions and shall remain so without the element of force, fraud, deceit, duress, overreaching, or other forms of constraint or coercion. There shall be no mandate by the state, counties or municipalities to enforce medical intervention for any contagions with an existing risk of spread to an individual or group of people at large.

The Division of Regulation and Licensure (DRL), Sections for Long Term Care Regulation and Health Standard and Licensure are responsible to regulate and conduct inspections in federally certified long-term care facilities, hospitals and other healthcare facilities. DRL is required to enforce federal regulations in these healthcare facilities through a formal, written agreement with the Centers for Medicare and Medicaid Services (CMS). CMS recently published an Interim Final Rule requiring all staff in certified health care settings receive the COVID vaccine. This initiative petition will restrict the ability of healthcare facilities to require staff to be vaccinated, which may result in them being terminated from the Medicare and Medicaid programs. DRL staff will no longer received Medicare or Medicaid funding to regulate or conduct inspections in these facilities.

This creates an unknown up to $15 million fiscal impact for the Division of Regulation and Licensure (DRL).

The proposed language could also have an unknown negative impact on federal funds. Their department is not able to estimate the dollar amount of federal funding that could be lost. In fiscal year 2022, their department has approximate $1,900,769,263 in federal funding.

The proposal will require seven new FTE in a large city equaling $28,980 ($18 x 230 x 7) in capital improvements or rental space costs.

They also provided the following information:

FISCAL ESTIMATE WORKSHEET **FISCAL NOTE: 22-079IP**

BILL NO: 0

General Revenue

FUND COSTS BY CATEGORY

Expenditure by Category / Personnel by Position	FTEs	Annual Salary	FY 2023	FY 2024	FY 2025
Regulatory Compliance Manager	1	$85,053	$70,878	$85,904	$86,763
Senior Program Specialists	5	$54,677	$227,821	$276,119	$278,880
Research/Data Analyst	1	$46,651	$38,876	$47,118	$47,589
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**7**		**7**	**7**	**7**
Total Salaries			**$337,574**	**$409,140**	**$413,231**
Fringe Benefits			**$196,034**	**$236,713**	**$238,200**

FISCAL ESTIMATE WORKSHEET **22-079IP**

0

General Revenue

FUND COSTS BY CATEGORY

Expenditure by Category / Equipment by Item	BOBC	Units	Unit Cost	FY 2023	FY 2024	FY 2025
Desk Chair	580	7	$601	$4,207		
Side Chair	580	7	$382	$2,674		
Desk	580	3	$601	$1,803		
File Cabinet	580	7	$599	$4,193		
Calculator	190	7	$20	$140		
Cubicle	580	4	$6,800	$27,200		
Telephone	340	7	$300	$2,100		
Laptop	480	7	$1,386	$9,702		
Monitor	480	7	$184	$1,288		
TOTAL EQUIPMENT				$53,307	$0	$0
Expenses	**BOBC**	**Units**	**Unit Cost**			
Travel	140	7	$5,103	$29,768	$36,614	$37,529
Fleet	560	7	$81	$473	$581	$596
Supplies	190	7	$372	$2,170	$2,669	$2,736
Telecommunications	340	7	$313	$1,826	$2,246	$2,302
Maintenance and Repair	430	7	$36	$210	$258	$265
RENT:						
St. Louis/Metro ($21)	680		$4,830	$0	$0	$0
Large City ($18)	680	7	$4,140	$24,150	$29,705	$30,447
Out State ($14)	680		$3,220	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$58,597	$72,073	$73,875
TOTAL EQUIPMENT AND EXPENSE				$111,904	$72,073	$73,875
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET **22-079IP**

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General Revenue

SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2023	FY 2024	FY 2025
Salaries	$337,574	$409,140	$413,231
Fringe Benefits	$196,034	$236,713	$238,200
Equipment and Expense	$111,904	$72,073	$73,875
Local Assistance	$0	$0	$0
Other Fund Costs	$0	$0	$0
TOTAL FUND COSTS - ALL CATEGORIES	**$645,512**	**$717,926**	**$725,306**
II. Fund Revenue Sources			
Taxes	$0	$0	$0
Fines	$0	$0	$0
Administrative Sanctions	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND REVENUE - ALL SOURCES	**$0**	**$0**	**$0**
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**($645,512)**	**($717,926)**	**($725,306)**

Officials from the **Department of Commerce and Insurance** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated they assume an overall unknown fiscal impact due to the various changes that would apply should this pass. They have the following concerns regarding the language contained in this initiative petition.

Section 3 provisions would expressly curtail their ability to comply with generally accepted standards for the prevention and control of all infectious disease. This could increase risk to their staff and those in their care, as well as jeopardize their hospital licensing and CMS funding.

Section 7 could also affect their care subject to federal funds and cost their department federal match dollars. They operate (fiscal year 2022 budget) with federal funds received from various federal agencies totaling approximately $1.5 billion. Failure to comply could jeopardize considerable funding with the potential impact being between $0 and up to $1.5 billion and may consume additional department resources in assisting defense.

Section 11 could impose substantial unknown litigation costs on their department.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated unknown fiscal impact.

This petition creates individual rights related to medical interventions, treatments or other therapies or procedures. It will have a significant operational impact and potentially significant fiscal impact on their department; however, the exact impact is unknown due to the wide scope of the proposed legislation. The language is very broad and contemplates issues in abstract and sweeping ways that could have unforeseen implications at this time, especially considering the operational nature of this department.

Section 3 prohibits the state from mandating, compelling, or otherwise enforcing any type of medical intervention or therapy on an individual for any reason. This will have an impact on institutional operations. They require offenders and staff to undergo tuberculosis testing annually. Should a positive test result occur, they require additional medical testing to ensure they do not have an active TB infection (which would be contagious). They have to know that the TB is latent. In addition, offenders are mandated to complete HIV testing. These tests are conducted to help reduce the spread of these diseases within the facility and to keep staff, contractors, and other offenders safe. In addition, there are instances where their department must medically treat an offender, against their will, in order to reduce risk of harm to the offender or others. It appears this section would prohibit their ability to force these medical interventions.

This legislation is unclear as to whether it is allowing offenders to self-determine only the treatments they undergo, or also the provider of these treatments. Since healthcare is

mandated, their department is paying a contracted vendor to manage their offender's healthcare needs. If the offenders are allowed to choose their specific provider, this would cost the state exponentially more money. Not only will the department be paying the contracted healthcare provider, but they will also be incurring additional charges for the services that were completed outside of the contracted vendor. There will also be additional costs relating to the transportation and security of the offenders being transported to the outside medical providers.

Another issue is the lack of restriction of medical treatments to "necessary." This would essentially allow the offenders to self-determine their need for "any" medical treatment, whether medically necessary or simply desired. This could also include the use of medical marijuana as a treatment method. Currently medical marijuana is prohibited for offenders, but the right to "personal autonomy" with medical issues would prevent their department from restricting medical marijuana as a treatment option for offenders.

Section 3 also states public entities cannot require, to any degree, an individual to make known any degree of medical history of the individual. They mandate staff to notify the department when they are taking medications that may impair their mental health or physical ability to perform the essential functions of their job. In addition, they are mandated to provide documentation requested by their medical review officer during the employee drug testing process. When staff are impaired, it impacts the safety of the facility, staff, and other offenders.

Officials from the **Department of Labor and Industrial Relations** indicated no fiscal impact to their department. This could impact an employer's ability to direct health care under the workers' compensation system, which could increase costs for employers.

Officials from the **Department of Revenue** indicated this initiative petition, specifically Section 3, potentially conflicts with the following Missouri Statutes:

- 302.026
- 302.130
- 302.171
- 302.173
- 302.174
- 302.175
- 302.182
- 302.205
- 302.275
- 302.276
- 302.291
- 302.292
- 302.420
- 302.425
- 302.440

- 302.505
- 302.510
- 302.540
- 302.580
- 302.745
- 302.750
- 302.768

Their department would be unable to implement the provisions of this initiative petition without being in noncompliance with state statute, and for commercial driver's license (CDL) issuance, federal regulation.

Implementing this initiative petition, specifically in regards to CDL issuance, could result in a federal noncompliance finding, which would result in a significant loss of federal transportation funding.

Officials from the **Department of Public Safety - Office of the Director** indicated this proposed amendment may have a significant legal impact on their department and its divisions. As written, it is difficult to assess its potential impact, as it contains numerous terms of art that are defined in this proposal that are not in common usage elsewhere in state law. A few potential effects include that it may hinder the state's ability to provide assistance to individuals who require healthcare in emergency situations; prohibit pre-employment medical screening of law enforcement employees; prohibit collecting necessary medical history information from Veterans in Missouri Veterans Homes; and could expose the personal health information of Missourians to the public through the audit procedures detailed in the proposal. This bill may require the state to incur significant legal costs in defense of actions that are alleged to be in violation of this amendment. This is a significant concern as the provision nullifying federal medical mandates will almost certainly face a constitutional challenge. There may be other potential effects on the state in addition to those identified here.

Officials from the **Department of Social Services** indicated this will have an unknown impact for their department.

Section 2 limits the ability of their department to limit medical costs or to ensure medical appropriateness of medical interventions or treatments in the MO HealthNet population. This section leaves all determinations for medical interventions or treatments with the individual, including but not limited to vaccines, medications, or even abortion. With no ability to impose prior approval protocols, MO HealthNet would have an unknown cost.

Section 3 proposes no public entity shall mandate any type of medical intervention or therapy on an individual, or group of individuals for any reason or require, to any degree, an individual to make known any degree of medical history of the individual.

The Family Support Division (FSD) has policies and procedures in place regarding obtaining medical records as needed when determining eligibility for all public assistance

programs FSD administers. In addition, FSD has policies and procedures related to the Blind Pension (BP) program that requires BP recipients to pursue treatment or operation when recommended by a medical authority. These policies align with requirements to receive federal funding, and would run counter to Section 3.

The eligibility of the Permanently and Totally Disabled population to participate in Medicaid is determined in part using medical records. Inability to use those records inhibits their department's ability to determine eligibility for the Permanently and Totally Disabled population. The total expenditures for the population in fiscal year 21 were $4.4 billion.

The provisions of Section 3 also would impact the Children's Division, limiting the ability to conduct family assessments and follow federal guidelines for screening foster parents.

Section 5, by defining an "individual" would make children under the age of 18 provide informed consent prior to treatment, rather than consent being provided by an appointed party, such as the Children's Division, the Juvenile Officer, or a parent/guardian.

Section 7 nullifies federal law, and may impact payment for joint state/federal programs such as Mo HealthNet or child/welfare and public assistance programs.

Section 9 creates a need for staff. Transcripts would need to be provided for medical initiatives. The Division of Legal Services would need one special counsel and one Administrative Support Professional. The Children's Division would need one Administrative Support Professional and one Senior Program Specialist.

Section 10 requires a report of medical initiatives to be created and submitted. MO HealthNet would need two Special Assistant Professionals to review the reports, and find transactions for repayment.

They also provided the following information:

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FUND COSTS BY CATEGORY

Fund Split 1

Expenditure by Category Personnel by Position	FTEs	Annual Salary	FY 2023	FY 2024	FY 2025
DLS staff		$0	$0	$0	$0
Special Counsel	1	$57,889	$48,241	$58,468	$59,053
Administrative Support Profession	1	$44,437	$37,031	$44,881	$45,330
		$0	$0	$0	$0
MHD staff		$0	$0	$0	$0
Special Assistant Professional	2	$76,373	$127,289	$154,274	$155,816
		$0	$0	$0	$0
CD staff		$0	$0	$0	$0
Administrative Support Profession	1	$44,437	$37,031	$44,881	$45,330
Senior Program Specialist	1	$47,488	$39,573	$47,963	$48,443
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
		$0	$0	$0	$0
Total FTE by Fiscal Year	**6**		**6**	**6**	**6**
Total Salaries			**$289,165**	**$350,467**	**$353,972**
Fringe Benefits			**$170,913**	**$206,259**	**$207,433**

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FUND COSTS BY CATEGORY

Expenditure by Category One-time Costs (Choose Cube or Office)	BOBC	Units	Unit Cost	FY 2023	FY 2024	FY 2025
OFFICE						
Desk	580	1	$601	$601		
Chair	580	1	$719	$719		
Side Chair	580	1	$382	$382		
File Cabinet	580	1	$599	$599		
Calculator	190	1	$20	$20		
Telecommunication setup	340	1	$300	$300		
VDI	420	1	$606	$606		
CUBE						
MVE Systems Furniture	580	5	$7,921	$39,605		
Telecommunication setup	340	5	$300	$1,500		
VDI	420	5	$606	$3,032		
			$0	$0		
OTHER ONE TIME			$0	$0		
			$0	$0		
			$0	$0		
TOTAL ONE TIME COST				$47,364	$0	$0
Ongoing Expenses	**BOBC**	**Units**	**Unit Cost**			
Office Supplies	190	6	$372	$1,860	$2,288	$2,345
Telephone	340	6	$300	$1,500	$1,845	$1,891
Utilities	180	6	$460	$2,300	$2,829	$2,900
Janitorial	420	6	$403	$2,013	$2,475	$2,537
Rent	680	6	$4,830	$24,150	$29,705	$30,447
Travel (normally only	140	6	$3,000	$15,000	$18,450	$18,911
Membership/Prof Develop	320	6	$565	$2,825	$3,475	$3,562
Postage	190	6	$600	$3,000	$3,690	$3,782
Ongoing VDI cost	420	6	$3,392	$16,958	$20,858	$21,379
Contract	400		$0	$0	$0	$0
Program Distributions	800		$0	$0	$0	$0
Other ongoing costs			$0	$0	$0	$0
			$0	$0	$0	$0
TOTAL EXPENSE				$69,606	$85,615	$87,754
TOTAL EQUIPMENT AND EXPENSE				$116,970	$85,615	$87,754
Local Assistance				$0	$0	$0
Other Costs ( )				$0	$0	$0

FISCAL ESTIMATE WORKSHEET

FISCAL NOTE: SAO 22-079
BILL: Initiative Petition
FUND: GR

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SUMMARY OF FUND COSTS

I. Fund Costs by Category	FY 2023	FY 2024	FY 2025
Salaries	$289,165	$350,467	$353,972
Fringe Benefits	$170,913	$206,259	$207,433
Equipment and Expense	$116,970	$85,615	$87,754
Local Assistance	$0	$0	$0
Other Fund Costs - lost federal funding PTD populatio	$3,000,000,000	$3,000,000,000	$3,000,000,000
TOTAL FUND COSTS - ALL CATEGORIES	**$3,000,577,048**	**$3,000,642,341**	**$3,000,649,159**
II. Fund Revenue Sources			
Taxes	$0	$0	$0
Fines	$0	$0	$0
Administrative Sanctions	$0	$0	$0
Other Sources ( )	$0	$0	$0
TOTAL FUND REVENUE - ALL SOURCES	**$0**	**$0**	**$0**
III. Cost Avoidance (Savings)			
Salaries	$0	$0	$0
Fringe Benefits	$0	$0	$0
Equipment and Expense	$0	$0	$0
Other Sources ( )	$0		
TOTAL FUND SAVINGS	**$0**	**$0**	**$0**
ESTIMATED NET EFFECT ON FUND	**($3,000,577,048)**	**($3,000,642,341)**	**($3,000,649,159)**

Officials from the **Governor's office** indicated this proposal relating to medical liberty should not fiscally impact their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact.

Officials from the **Department of Conservation** indicated while it is difficult to tell because of the convoluted nature of this initiative petition, there is no anticipated fiscal impact (cost or savings) to their department associated with this proposal.

Officials from the **Department of Transportation** indicated this initiative petition will not have a fiscal impact on their department/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal relating to medical liberty should not fiscally impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated each year, a number of joint resolutions that would refer to a vote of the people a constitutional amendment and bills that would refer to a vote of the people the statutory issue in the legislation may be considered by the General Assembly.

Unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be $7 million based on the cost of the 2020 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over $5.8 million was spent to publish the full text of the measures for the August and November elections. Their office estimates $75,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will have no fiscal impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Clay County** indicated they anticipate no costs or savings from this initiative.

Officials from **Greene County** indicated there are unknown estimated costs related to the requirement of attaining independent organizations to audit the work of the county within section 4 to report from the County of Greene for this initiative petition proposing to amend Article XV.

Without any past information related to this type of audit that might be used to ascertain what the cost might be for the required audit, there is not an accurate estimate to submit at this time.

Officials from the **City of Kansas City** indicated this proposal if passed would have a negative fiscal impact on the city in an indeterminate amount. It would not allow a hospital, without patient consent, to tell a first responder that such responder has been exposed to certain infectious diseases. Which would drive up workers compensation insurance costs. The proposal's audit provisions could increase the city's administrative costs. The initiative petition could increase litigation against their city. The provisions regarding the nullification of federal law could have a negative fiscal impact by making the city, if it obeyed such provisions, ineligible for federal grant money.

Officials from **Metropolitan Community College** indicated no known fiscal impact.

Officials from **University of Central Missouri** indicated the estimated annual impact is about $440,000. This includes lost revenue of $390,000 and additional cost associated with electronic records of $50,000. The electronic recording cost relates to upgrading and hiring/training for the university's electronic medical record system. It relates to Section 10 Integrity and Transparency in Publicly Funded Medical Initiatives. The lost annual revenue relates to any type of immunization required screening, testing, or shots. Loss of revenue related to the insurance paid-out fees associated with the reduced amount of required immunization shots, screenings, and testings from the international and domestic students enrolled.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Cole County, Jackson County, Jasper County, St.**

Charles County, St. Louis County, Taney County, the **City of Cape Girardeau,** the **City of Columbia,** the **City of Jefferson,** the **City of Joplin,** the **City of Kirksville,** the **City of Mexico,** the **City of Raymore,** the **City of St. Joseph,** the **City of St. Louis,** the **City of Springfield,** the **City of Union,** the **City of Wentzville,** the **City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, Wellsville-Middletown R-1 School District, State Technical College of Missouri, University of Missouri, St. Louis Community College, Harris-Stowe State University, Lincoln University, Missouri State University, Missouri Southern State University, Missouri Western State University, Northwest Missouri State University, Southeast Missouri State University, Truman State University,** and the **Missouri Office of Prosecution Services.**

Fiscal Note Summary

State governmental entities estimate one-time costs totaling $100,000, ongoing costs that could be significant totaling at least $1.4 million annually, and reduced revenues totaling at least $3 billion annually. Local governmental entities estimate ongoing costs of an unknown amount and ongoing reduced revenues of an unknown amount.